

18:00 1

IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF TEXAS

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DALLAS DIVISION

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UNITED STATES OF AMERICA ( NUMBER 3: 04-240-G

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VERSUS

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HOLY LAND FOUNDATION, ET AL. ( September 19, 2007

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18:00

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VOLUME 32

11

TRANSCRIPT OF THE TRIAL  
BEFORE THE HONORABLE A. JOE FISH

12

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A P P E A R A N C E S:

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15

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UNITED STATES DEPARTMENT OF JUSTICE

NORTHERN DISTRICT OF TEXAS

U.S. Courthouse

1100 Commerce Street

Dallas, Texas 75242

214/659-8600

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18:00 8 Court Reporter: Cassidi L. Casey, CSR No. 1703  
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18:00 1

P R O C E E D I N G S:

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THE COURT: Good morning, Ladies and Gentlemen.

3

We'll hear next from Ms. Moreno, counsel for Mr. Ghassan

4

Elashi. Go ahead, Ms. Moreno.

5

MS. MORENO: Your Honor, I would appreciate a

6

thirty minute warning, and I understand I have an hour an

7

thirty-five minutes. Is that correct?

8

THE COURT: Yes, ma'am.

9

MS. MORENO: Good morning, Ladies and

10

Gentlemen. This is my opportunity to speak on behalf of

11

Ghassan Elashi. Mr. Cline and I, and especially Mr.

12

Ghassan Elashi, understand the sacrifices that you have

13

made these several weeks to be here, to pay attention,

14

away from your families and your homes. And we hope that

18:00 15

you will regard it as an important investment, an

16

investment that I suspect you will remember for the rest

17

of your lives as will we. So we thank you for your

18

precious time here.

19

I'm not going to try and repeat what has been

20

said, but I will remind and emphasize some points that

21

other lawyers made on behalf of Mr. Ghassan Elashi.

22

Now, you haven't heard much about Ghassan Elashi

23

in this case, but I am going to discuss the bit of

24

evidence that has been presented to you. What you have

25

heard through the efforts of the defense is all about the

18:00 1 work that Ghassan Elashi did for the Holy Land Foundation,  
2 how he supported the families who were rendered homeless.  
3 He supported the orphans. He supported the needy.  
4 Ghassan Elashi did not support terrorism. Ghassan Elashi  
5 did not support violence, and he did not support HAMAS.  
6 What he supported were the sons and daughters of  
7 Palestine, and for this, Ladies and Gentlemen, Ghassan  
8 Elashi does not apologize for feeding hungry women and  
9 children, and he doesn't apologize for contributing in his  
10 own way to the safety and shelter of those children. He  
11 is proud of the work he did for the Holy Land Foundation  
12 and honored that he had an opportunity to do it.

13 Throughout this, I am going to talk to you about  
14 the context of the need here, and I am going to talk to  
18:00 15 you about the kind of evidence that the government  
16 presented to you, but let's remember who we are talking  
17 about. This is who Ghassan Elashi's work was directed to,  
18 the Children of Palestine.

19 Now, we know about the need in Palestine from  
20 the government's own expert, Matthew Levitt. Ms.  
21 Hollander cross-examined Mr. Levitt, and she asked him  
22 about the unemployment rate in the West Bank and Gaza  
23 which was over thirty-three per cent, and he said that  
24 sounds right, and she said three-fourth's of the  
25 Palestinian population living in the West Bank are below

18:00 1 the poverty line of two dollars a day, and he said that  
2 has been the case, and she asked him if twenty-eight  
3 percent of the children under the age of five suffer from  
4 acute malnutrition, and he said yes, and the infant  
5 mortality rate in Gaza is forty death per live birth, and  
6 he said this sounds right, and throughout the occupation  
7 the Israeli Government has consistently failed to provide  
8 essential services to the Palestinians, and he said I  
9 agree. And that includes making sure people have enough  
10 food and water, and he agreed with that. That is the work  
11 that Ghassan Elashi did proudly, was to provide for these  
12 children.

13 Now, several weeks ago I told you in my opening  
14 remarks that you would learn who the Palestinians were and  
18:00 15 why their plight mattered so much to Ghassan Elashi and  
16 the Holy Land and Muslims around the world, and I suspect  
17 that some of this information may have come as a surprise  
18 to you. This side of what happens in the Palestine is  
19 little covered in the nightly news. You don't hear much  
20 about the refugee camps or the consequences of the  
21 intifada on the daily life of the Palestinians or the  
22 pervasive and brutal effects of the military occupation on  
23 the Palestinians, and perhaps you did not know before this  
24 trial that they were refugees in their own homeland, that  
25 they were an occupied people and that their daily lives

18:00 1 were shaken by deprivation. And the children were denied  
2 a childhood by any recognizable standard to Americans.  
3 And maybe you didn't know that families were thrown out on  
4 the street in collective punishment, only to watch their  
5 homes being destroyed by bulldozers. Perhaps you did not  
6 know that. Ghassan Elashi, he knew that, and he couldn't  
7 stand by and do nothing, and now you know that, and I  
8 wonder if you will ever forget what you learned about a  
9 people in a place called Palestine living in the 21st  
10 Century.

11 In fact, you have heard little evidence about  
12 Ghassan Elashi and no evidence that he supported violence  
13 or terrorism. The government gave you eleven phone calls,  
14 eleven involving Mr. Elashi. Eleven phone calls out of  
18:00 15 the nine year period of time, this pervasive, extensive  
16 scope of this investigation, and they have eleven phone  
17 calls. Four took place in 1995, a couple in 1996. One in  
18 1997 and four in 1999.

19 Now, Mr. Elashi himself was not wiretapped. But  
20 he was picked up in conversations with others who were.  
21 Eleven phone calls and not one of them shows Ghassan  
22 Elashi supported terrorism, supported violence. What they  
23 do show is that he has opinions, that he cared deeply  
24 about the reputation of the charity that he had devoted  
25 himself to for twelve years and devoted himself without

18:00 1 any compensation. And he felt deeply about the  
2 continuation of the humanitarian aid that he felt  
3 responsible for. Look at those phone conversations.  
4 We'll talk about those in a moment.

5 What you don't hear in these conversations is  
6 just as important, what is not in these calls. You don't  
7 hear Ghassan Elashi ever asking, you know, how was that  
8 HAMAS funding operation going. You don't hear him discuss  
9 how to choose Zakat Committees which are connected to  
10 HAMAS. You don't hear him requiring a Zakat Committee to  
11 be chosen because, quote, they are ours. You don't hear  
12 him asking for any HAMAS directives. You don't hear him  
13 asking for any specific children to be sponsored because  
14 they are related to suicide bombers. You don't hear him  
18:00 15 ever say that you shouldn't deal with a particular Zakat  
16 Committee because it's not enough HAMAS or not controlled  
17 by HAMAS to benefit HAMAS.

18 What you do hear is that he complied with the  
19 law. He tried to understand the law, and when he didn't,  
20 he would hire people to help him like John Bryant, and we  
21 will talk more about that in a minute. Now, in these  
22 phone calls, you also heard him make remarks about his  
23 suspicions, that he felt people were trying to defame and  
24 destroy the Holy Land Foundation, and this was very  
25 important to Ghassan Elashi. And you will hear that in



18:00 1 calls, and Mr. Garrett may tell you about that more. But  
2 we know that Steven McGonigle of the Dallas Morning News  
3 told you that the Holy Land Foundation sued them for  
4 defamation. That is the extent and the pervasiveness of  
5 the defamation that was going on in this very community  
6 against the Holy Land Foundation. And you heard him angry  
7 that at sometimes the prospect that humanitarian work  
8 could stop and as a result families would suffer because,  
9 you see, Mr. Elashi was thinking about the families over  
10 there. And you heard him voice an opinion shared by  
11 nearly all Palestinian people as Muslims and others from  
12 around the world: His opposition to the occupation of his  
13 homeland. And you know what? That doesn't make Ghassan  
14 Elashi a terrorist, and it doesn't make him a supporter of  
18:00 15 terrorism. What it does is it makes him a Palestinian.

16 Now, for the most part, I told you in my opening  
17 statement what I thought the evidence would show, and I  
18 told you it would show about the need and it would show  
19 that Mr. Elashi and Mr. Baker sought out legal counsel to  
20 help them weed through the mire and the onslaught of what  
21 was happening to the Holy Land Foundation.

22 But the same is not true for the promises that  
23 the government made in their opening statement. And I  
24 want you to remember throughout my comments there are two  
25 themes in the prosecution of this case, selective bias and

18:00 1 creating a false picture, because that's what the  
2 government did. Mr. Jacks made promises to you in his  
3 opening that he did not keep, and other counsel have  
4 mentioned it, but allow me to weigh in here. What did he  
5 tell you? He said that my client, Ghassan Elashi, was  
6 deceitful and lied. Ghassan Elashi didn't lie. There is  
7 no evidence of that. Look closely. Look closely at the  
8 evidence. That's testimony from Mr. Jacks. There is  
9 testimony from the prosecutors, but not from the witness  
10 stand. What we do know is when Ghassan Elashi had an  
11 issue and he tried to research it and he tried to  
12 understand it. They point to the fact that they found the  
13 law in his office, and there is nothing sinister about  
14 finding a copy of the statute that impacted the charity  
18:00 15 that he had dedicated his life to. That is what a  
16 responsible member of an organization would do. They try  
17 to find out, get to the bottom of things. Jim Jacks told  
18 you that the Holy Land Foundation kept two sets of records  
19 in different languages, trying to suggest some kind of  
20 concealment, and here we have the beginning of an  
21 important theme in the government's prosecution, this  
22 cherry-picking.

23 Now, Government's Exhibits 319 and 3312. Here  
24 are the three documents. You can look at them for  
25 yourself. Here is the Holy Land Resolution, board meeting

18:00 1 minutes, and these are the actual board meeting minutes of  
2 the Occupied Land Fund, and you know what it had? It has  
3 exactly what you expect board meeting minutes to have. It  
4 has an agenda, action plans, follow-up reports, and it has  
5 a budget.

6 Then we look at Government's Exhibit 3-19 which  
7 the government is trying to say is the separate set of  
8 books. And I want to caution you here because Mr. Dratel  
9 touched on it briefly, but let's take a look at what this  
10 document is which came from Mr. El Barasse, what I call  
11 the black hole of documents, this whole 3 series. We  
12 don't know who wrote it, what was the audience, what was  
13 their motivation in writing it, and I suggest that  
14 criteria applies to all 3-series documents. But what do  
18:00 15 they say? The Fund will commit to paying twenty-five  
16 thousand dollars annually to the Central Committee. There  
17 is no evidence of that. Brother Shukri Abu Baker will be  
18 thirty-six thousand. There is no evidence of that. That  
19 Mr. Elashi was going to get fifteen hundred dollars  
20 monthly, that Mr. El-Mezain would get a thousand dollars  
21 monthly for his services, that the chairman of the Fund  
22 would submit his work program. Where is the evidence of  
23 that? And Mr. Elashi will pay seventeen thousand dollars  
24 to a financial controller. You know what? None of this  
25 happened. This is nothing to do with the Holy Land

18:00 1 Foundation or the Occupied Land Fund.

2 Now, his honor is going to give you  
3 instructions, and you have heard about these, and one of  
4 them, which is the most important one, as you can imagine,  
5 comes first in the instructions that his Honor gives you,  
6 and that is about the presumption of innocence and the  
7 burden of proof. You know the government has the burden  
8 of proving my client guilty beyond a reasonable doubt.  
9 The burden never shifts. It stays over there. They have  
10 to find him guilty beyond all reasonable doubt.

11 Now, a reasonable doubt is a doubt based upon  
12 reason and common sense after careful and impartial  
13 consideration. Proof beyond a reasonable doubt is proof  
14 of such a convincing character you would be willing to  
18:00 15 rely on it and act without hesitation, and I ask you is an  
16 unsigned, undated document which could be written by  
17 anyone at any time the kind of evidence that supports of  
18 of such convincing character that you would be willing to  
19 rely upon it and act upon it without hesitation in your  
20 affairs? And what does it say about a prosecution that  
21 offers this kind of evidence? Well, this particular  
22 instruction goes to all the Series 3 and 4 documents found  
23 in what I call the black holes of Mr. El Barasse and  
24 Mr. Ashqar's residence.

25 Mr. Jacks also said that the Holy Land tried to

18:00 1 dispose of Arab language records when they believed they  
2 were being investigated. You know the government  
3 interviewed Yaish the accountant for the Holy Land  
4 Foundation six times. He told you that. And they didn't  
5 call him. You know why? Because his evidence didn't fit  
6 their theory. He wasn't going to say the Holy Land kept  
7 two sets of books. He wasn't going to lie like that.  
8 What did he say? He said it was an independent,  
9 transparent organization.

10 Now, Mr. Jacks when he was talking about this  
11 set of books and what have you, he was referring to the  
12 security document that we have heard so much about. This  
13 is a document that was found in the storage in a box  
14 somewhere at Infocom. Look at the document to see how  
18:00 15 completely irrelevant it is to the work of the Holy Land  
16 Foundation. I am going to ask you to remember Mr. Cline's  
17 cross examination on this. And you remember the first  
18 page has these fingerprint marks, and there was no  
19 evidence that these fingerprints tied to anybody in this  
20 case. And then -- So there is these -- I don't know.  
21 Rules or regulations. Don't exceed 11:00 p.m. for  
22 meetings, consult a maintenance committee for private  
23 meetings, a special classification of documents, a special  
24 system of encryption. It's throughout. And Mr. Cline  
25 cross-examined Agent Miranda, and what did Agent Miranda

18:00 1 tell you? He said he never saw a maintenance committee, a  
2 sorting committee or a work committee or a field committee  
3 in any documents at the Holy Land Foundation. And  
4 additionally, he never saw any kind of a classification of  
5 documents like we see on this first page. You see that  
6 Number 2? And he pointed that out to the witness because  
7 this corresponds to this secret document that we don't  
8 know who wrote it, who read it, what it was used for, if  
9 anything. It's completely and totally irrelevant. And  
10 you know, if they would have found another document with a  
11 number, they certainly would have brought it before you.  
12 And obviously, obviously, Mr. Elashi and Shukri Abu Baker  
13 and Mr. El-Mezain never got this memo because they broke  
14 all the rules. They traveled under their own names. They  
18:00 15 used their own credit cards. They were open and public  
16 and transparent.

17 Additionally, Mr. Jacks promised you you would  
18 hear from an insider, Mr. Shorbagi, and Mr. Jacks said he  
19 would testify before you and tell you that he and these  
20 defendants and the Holy Land Foundation were an  
21 organization whose purpose was to raise money for HAMAS.  
22 Where is Mr. Shorbagi? They never presented Mr. Shorbagi  
23 to you. They never presented any witness to you who had  
24 any kind of inside information that the Holy Land  
25 Foundation and its principals were really supporters of

18:00 1 HAMAS. You know what? Because none exists. It's not  
2 true.

3 Let's examine the kind of witness the defense  
4 presented to you and the quality of their eye witness,  
5 firsthand testimony about what these Zakat Committees were  
6 about. We agree with Mr. Jacks that that is one of the  
7 most important points in this case, which were the Zakat  
8 Committees that were controlled by HAMAS and what also was  
9 the daily life of the Palestinians. Mr. Abington, a  
10 thirty-year career in the State Department, a CIA analyst  
11 responsible for analyzing intelligence, providing  
12 recommendations to the President of the United States and  
13 his cabinet. Now, Jonas never asked -- Mr. Jonas never  
14 asked Mr. Abington, Well, if you gave wrong answers, would  
18:00 15 lives depend upon it because he knew what the answer would  
16 be. The answer would be yes. Mr. Abington had to be  
17 correct. He had to know what was going on. Why? Because  
18 he was the eyes and ears of the United States in a foreign  
19 country. He told you that he had worked for the army  
20 intelligence, worked for the National Security Agency.  
21 What do they do? They study people targeted by the United  
22 States as a threat to national security. He had a top  
23 secret code alert -- security clearance for thirty years.  
24 He was consul general dealing with a foreign government at  
25 the highest level. He analyzed political information. He

18:00 1 was in Tel Aviv during the 1967 war. I doubt that Avi was  
2 even born then. He reads and speaks Arabic. And you know  
3 that from 1993 to 1997 he was the American Consul General  
4 in Jerusalem approved by the President of the United  
5 States. He reported directly to the Secretary of State,  
6 Madeliene Albright. That's who Mr. Abington was. And  
7 then after 1997, he goes back to the State Department and  
8 what is he? The Number 2 officer at the State overseeing  
9 the intelligence. He received daily briefings -- you  
10 heard this many times -- daily briefings from the CIA, and  
11 these briefings were a distillation from several agencies  
12 of all kinds of intelligence, including the Government of  
13 Israel. Shinbet, Israeli Intelligence, provided almost  
14 daily information to the CIA. That's not been refuted.

18:00 15 There has been no witness who has come before you and told  
16 you that's not true. He was instructed not to have any  
17 contact with HAMAS. And you know what? He didn't. When  
18 he went to those Zakat Committees -- And he went to every  
19 Zakat Committee in this indictment. They are not a part  
20 of HAMAS. Now, he told you he didn't consider Israeli  
21 Intelligence terribly reliable because of their political  
22 agenda to try to, quote, influence the thinking of U.S.  
23 policy makers and that they apply intelligence in a  
24 selective fashion and try to influence U.S. thinking.  
25 Does that sound familiar? We'll talk about Avi later.



18:00 1 Mr. Abington is the only witness in this case who could  
2 tell you firsthand what the Zakat Committees were like,  
3 what they looked like. He visited every one. Do you  
4 think he lied to you? He has no dog in this fighting. In  
5 fact, he was the lobbyist for the bitter foe of HAMAS. He  
6 was the lobbyist for the Palestinian Authority. What did  
7 he tell you about the Zakat Committees? That they were an  
8 informal set of rules, nothing rigid.

9 This is a summary of the evidence of the Zakat  
10 Committees as presented by both Mr. Abington and Dr. Brown  
11 which we will talk about. Take a look at that. You know  
12 they both said these were governmentally charged bodies  
13 and overseen by Jordan, Israel, Egypt and the Palestinian  
14 Authority. But many were formed in the seventies, years  
18:00 15 before HAMAS, and they were nonpartisan, and they had to  
16 be nonpartisan because this is a society that's deeply  
17 divided. We have heard that families have brothers who  
18 have opposing points of political view. Tribal issues  
19 come up. So we know the Zakat Committees in order to be  
20 effective can't take sides and can't appear to take sides.  
21 He said that these were transparent by international  
22 standards. And what did they do? You know what they did?  
23 They found out what the need was. They are on the ground.  
24 They found out what the need was, certified the need and  
25 they distributed the aid. They were in and out. They

18:00 1 didn't distribute brochures of HAMAS political directives.  
2 This was charitable work. Humanitarian work.

3 The CIA did not consider Zakat Committees HAMAS.  
4 The Israeli Intelligence didn't inform the CIA that Zakat  
5 Committees were a part of HAMAS and HAMAS --

6 MR. JACKS: Your Honor, excuse me. I am going  
7 to object to this transparency or this document on the  
8 screen. It's not an exhibit. It's not a demonstrative  
9 exhibit, and I object to it being displayed at this time.  
10 It appears to be a document created by Ms. Moreno.

11 THE COURT: I'll overrule the objection. I  
12 agree with you that it's not an exhibit, but I think it's  
13 a visual aid that she's entitled to use in her argument.

14 MS. MORENO: Thank you very much, your Honor.

18:00 15 They don't want you to consider this evidence. The CIA  
16 did not consider Zakat Committees HAMAS. The CIA did not  
17 inform the State Department that the Zakat Committees were  
18 part of HAMAS. HAMAS didn't receive credit for the work,  
19 and that's what the credible evidence shows you. That's  
20 what the credible evidence shows you.

21 Now, Dr. Brown testified -- Now, who's  
22 Dr. Brown? Let's talk about Dr. Brown for a minute.  
23 Dr. Brown would qualify as one of those experts who the  
24 government should have brought before you. We'll talk  
25 about the witnesses they did bring in a minute. What is

18:00 1 his pedigree? Twenty years of as a professor in  
2 international affairs. Advises intelligence. And he told  
3 you the information he gives U.S. intelligence, yes, lives  
4 could depend upon it. You watched Dr. Brown. He seemed  
5 like such a careful witness. That's something you have to  
6 consider. You have to consider the demeanor of the  
7 witnesses before you, and I submit to you that when you  
8 compare the demeanor of Dr. Brown and the arrogant  
9 demeanor of Avi, whose name we don't know, that should  
10 matter to you.

11 Now he was also in the delegation headed by the  
12 Secretary of State Madeliene Albright. And he was chosen  
13 by the Chairman of the FATAH party, the bitter rival of  
14 HAMAS, to assist in drafting the Constitution. Do you  
18:00 15 think he was HAMAS? Do you think he was lying to you  
16 about what he saw and what he found? And he told you how  
17 Zakat Committees are viewed by the Palestinians  
18 themselves. The government wants you to believe that  
19 Palestinian hearts and minds could be won over by HAMAS,  
20 that the Zakat Committees were HAMAS and HAMAS would take  
21 credit for their work. That never happened. The Zakat  
22 Committees have to have integrity and be nonpartisan.  
23 Otherwise they would not be trusted.

24 And the government wants to push this political  
25 agenda through Major Lior, also not his real name, and

18:00 1 Avi. And you know Lior couldn't say the Zakat Committees  
2 had any political paraphernalia around because he never set  
3 foot in a Zakat Committee committee. Lior said for all he  
4 knew some of these materials were in the trash can. And  
5 Dr. Brown said these key chains and posters and the like  
6 would be throughout the village and towns and throughout  
7 the political and historical events in the West Bank that  
8 these items would be everywhere. You could see them  
9 everywhere. And he told you that these committees were  
10 pillars in the community. And in considering this  
11 evidence, Nathan Brown's evidence, you have to be guided  
12 by the Judge's instruction as follows: "You may find that  
13 an entity was controlled by HAMAS if you find the entity  
14 was operating under HAMAS's direction or if it was  
18:00 15 organizing, supervising, or managing or otherwise  
16 directing HAMAS's personnel or resources." That's the  
17 law. That's what you got to find to convict. And you  
18 absolutely cannot find that in this case.

19 And he told you that the Zakat Committees were  
20 governmentally chartered and that they collected and  
21 disbursed funds and that the licenses and registrations  
22 were from the government as I showed you in that outline  
23 of Jordan, Egypt and Israeli and the Palestinian  
24 Authority. A lot of these committees were formed in the  
25 seventies and early eighties. Do you think that a

18:00 1 religious charitable organization formed decades before a  
2 controversial political movement, HAMAS, was conceived is  
3 going to trade its integrity and historical status for  
4 being a front to this party? That doesn't make any sense.  
5 They are trusted, and they are trusted also because, as  
6 you learned, of their low overhead and expenses. They  
7 take the money in and give it out -- that's what Brown  
8 said -- without regard to political affiliation or even  
9 religious affiliations. Zakat Committees cannot take  
10 sides. He told you that they were transparent, and he  
11 told you they wanted to be above board so it wasn't seen  
12 that they were misusing any funds, that they coordinated  
13 to make sure the funds didn't overlap, to make sure that  
14 that they were -- They were receiving stipends and such  
18:00 15 from the United Nations and such. So they wanted to be  
16 sure that families didn't receive double what they should.

17           You watched Nathan Brown, and you know he said  
18 he felt he had an obligation to testify. That's what he  
19 told you. He talked about the stress the first intifada  
20 had on charity, and we have seen that stress in the orphan  
21 applications and the needy family sponsorships that I read  
22 to you during Agent Burns's cross examination. And if you  
23 recall, I went through a series of application forms, and  
24 there were some families who had family members arrested  
25 and then their homes were demolished and they received a

18:00 1 certain amount of money. And there were other families,  
2 if you recall, that either the relatives or the  
3 breadwinner was incapacitated or sick or wasn't there or  
4 had died, and they received the same amount of money.  
5 There was no preference here. There was no preference, as  
6 the government wants you to believe.

7 Dr. Brown gave you a critique of Avi's testimony  
8 and really what he said was that Avi characterized someone  
9 as a HAMAS organization based upon the activity of one  
10 person or based on a speaker's affiliation. He challenged  
11 Avi's sources. Remember, he told you about this political  
12 party had been named Al Qidra. This guy Al Qidra who  
13 brought drug charges against someone he didn't like. He  
14 didn't like them so he brought drug charges. That's the  
18:00 15 source that Avi depends upon to tell you that Zakat  
16 Committees are controlled by HAMAS. He set up fake  
17 standards which allowed him to characterize almost  
18 anything that a Zakat Committee did as HAMAS. Brown said  
19 that some NGO's were controlled by HAMAS. Remember he  
20 said that, and he also told you that a hundred three NGO  
21 charities have been closed down. None of them in this  
22 indictment, none of them that the Holy Land Foundation  
23 supported. And Brown told you he never saw HAMAS get  
24 credit for the work of the Zakat Committees. He  
25 completely discredited Avi's theory I believe in a

18:00 1 careful, sensitive way. He wasn't out to promote himself  
2 in any fashion like some of the government's witnesses.  
3 He told you that the structure of the Zakat Committee, the  
4 director doesn't have much control anyway. Get the money  
5 in and get it out. Certify the need. And he said that  
6 Zakat Committees don't try to influence society. They  
7 just tried to help the poor.

8 Where is the evidence that a distribution of aid  
9 was controlled by HAMAS or credited by HAMAS? None by the  
10 musings of Avi and to a lesser extent Levitt. And you  
11 would expect to see in the seizure in the Operation  
12 Defensive Shield -- you know those Israeli documents --  
13 some directives from HAMAS that certain monies should be  
14 spent to support HAMAS figures or causes. You don't see  
18:00 15 any of that.

16 Now, the government wants you to believe that  
17 the Holy Land Foundation, Zakat Committee, HAMAS, it's all  
18 one big blur targeting special segments of Palestinian  
19 society. You know it can be argued that the entirety of  
20 Palestinian society are special segments. That's the  
21 level of deprivation and need. These are the musings of a  
22 Shinbet agent based on Israeli intelligence sources he  
23 claims and a research of Israeli media, of course. Mr.  
24 Abington told you that his conclusions were based on daily  
25 briefings with the CIA.

18:00 1 Now, what about those 6 series of documents,  
2 posters and key chains? By the way, that Ghassan Elashi  
3 never saw, never supported, never discussed in the phone  
4 calls, never wrote about. Brown wasn't surprised about  
5 those. Remember? He said they were everywhere.

6 Government's Exhibits 4-21 and 3-7, these  
7 documents, the government keeps going back to these two  
8 documents. Remember what I told you, the 3 series and 4  
9 series, found not at Holy Land, not in Mr. Elashi's home,  
10 not at Infocom, but some other gentlemen who are not here.  
11 Found in black holes. That's where they were found. We  
12 don't know the provenance or the reliability. And the  
13 government uses these documents as the bedrock of their  
14 case, and they kept using it with the witnesses. You  
18:00 15 remember that? Shoving it under their nose and saying  
16 does that change your opinion? Does that chase your  
17 opinion? And they said no. Brown said no. Mr. Abington  
18 said "I don't know what this is. I don't know what this  
19 means. I don't know what the provenance of this is." And  
20 Dr. Brown was clearly uncomfortable being asked about  
21 documents which were presented to him line by line, a  
22 paragraph here, an isolated sentence there. Again, the  
23 selective cherry-picking theme that I'm talking to you  
24 about. The failure, perhaps intentionally, of the  
25 government to give you the whole picture so that you can



18:00 1 decide, so you have the fair amount of evidence before  
2 you. He reviewed Levitt's book. Said it wasn't  
3 scholarly. You heard Mr. Dratel talk about this.

4           What are the sources? Let's go back to the  
5 sources here. Levitt relies a lot on Israeli  
6 intelligence. And he said that the translations were  
7 uneven and inaccurate. And he relies on those Operation  
8 Defensive Shield documents that were collected by Israeli  
9 soldiers, and Dr. Brown said and Mr. Abington said this  
10 evidence serves a political purpose. A political purpose.  
11 It's not a source to be relied on, and you know, because  
12 the government wants to portray the defense witnesses as  
13 being biased. And Mr. Jonas or Mr. Garrett asked  
14 Dr. Brown about HAMAS, what he thought about HAMAS. And  
18:00 15 he unequivocally claimed that HAMAS was leading  
16 Palestinians into disaster. That's his opinion. That's  
17 what he told you. He defined HAMAS as an organization  
18 that engages in terrorism, which is absolutely true and  
19 which we denounce. And it also does more that is not  
20 terrorism which is also true. Garrett took him -- Garrett  
21 took him through the violence perpetrated on Israelis,  
22 none of which Dr. Brown disagreed with. None of which he  
23 supported. But what he did say was that the Israelis had  
24 better information, more accurate, more reliable. They  
25 can do a better job.

18:00 1 Now, I want to turn my attention to a comment  
2 that Mr. Jonas made in his closing remarks. And you  
3 remember Mr. Jonas telling you on Monday that designating  
4 HAMAS was the same thing as designating the Zakat  
5 Committees themselves -- that's their theory -- even  
6 though Zakat Committees weren't actually designated, and  
7 he gave you an analogy. He told you that if the Dallas  
8 Cowboys were designated you wouldn't to have the offensive  
9 line separately designated to know you couldn't give it  
10 material support. That's what he told you. Now, I want  
11 your permission to pursue this analogy a bit further, and  
12 I'm not making light of it. I'm not making light of it.  
13 But I need to make a serious point here. So please bear  
14 with me for just a few minutes. Let's start with who's on  
18:00 15 that Dallas cowboys offensive line. You remember that Mr.  
16 Abington and Mr. Brown told you on the boards of directors  
17 of Zakat Committees you could find maybe some HAMAS  
18 members, FATAH members. Certainly not everybody was  
19 HAMAS. And you know that HAMAS and FATAH are bitter  
20 rivals. Kind of like the Dallas Cowboys and Washington  
21 Red Skins. So let's suppose that Dallas offensive line  
22 has four Dallas Cowboys and three Red Skins, and you look  
23 at them and say what are those Red Skins doing in the  
24 Dallas offensive line? Is this really the Dallas  
25 offensive line? Recall the Zakat Committees are licensed

18:00 1 by the Palestinian Authority, the bitter enemy of HAMAS.  
2 It appointed board members and had the power to remove  
3 board members. They could deny licenses to Zakat  
4 Committees. That's what the evidence shows you. So let's  
5 go back to Mr. Jonas's analogy. Let's suppose you find  
6 out this couple of players, this, quote, Dallas offensive  
7 line not only has three or four Washington Red Skins on  
8 it. You find out that the Red Skins coach can get rid of  
9 anyone on the line he doesn't like, even the Cowboys, and  
10 he can disband the whole unit if he doesn't like the way  
11 it runs its plays. You are confused. How can this be the  
12 cowboys offensive line when the coach is from the Red  
13 Skins and he gets to control? Remember these Zakat  
14 Committees were formed many years ago before HAMAS  
18:00 15 existed.

16           Going back to Mr. Jonas's analogy you find out  
17 that the Cowboys' offensive line was formed years before  
18 the Dallas Cowboys enjoined the NFL back in 1960. You  
19 with me? Now you wander into the locker room where this  
20 offensive line gets ready, and you see on the wall some  
21 Dallas Cowboy picture, Tom Landry, Roger Staubach, and you  
22 see pictures of Washington Red Skins Gibbs and  
23 Worthington. Just how can this be the Dallas Cowboys  
24 offensive you ask yourself when it has Red Skins posters  
25 hanging in the locker room? You go and talk to a football

18:00 1 expert, and he tells you that the football teams have fans  
2 who pay good money to see the games, and the teams want to  
3 keep their fans, and they do everything to promote and  
4 publicize their players to take credit. So he says go  
5 talk to fans. You talk to Red Skins fans, Dallas Cowboy  
6 fans, and you talk to lots of fans just like Mr. Abington  
7 and Mr. Brown talked to lots and lots of Palestinians from  
8 all walks of life. And not a single one of those football  
9 fans you talked to associates that group of players, the  
10 offensive line with the Dallas Cowboys, not a single one.  
11 Just like there is no evidence in this case that a single  
12 Palestinian associates the Zakat Committees and the  
13 charity they provide with HAMAS. And the government  
14 didn't bring you anybody to tell you that. So now you are  
18:00 15 thinking what about this Dallas Cowboy offensive line. So  
16 you go to the Commissioner of the NFL, who has a list, and  
17 you ask the Commissioner -- just like the Treasury  
18 Department has this list that tells the world who's a  
19 terrorist. And this list includes the football teams like  
20 the Red Skins and Cowboys, and it has lists of coaches  
21 like the Treasury Department, and the list has defensive  
22 units like Sanabil and Al Saleh. You look at this list  
23 and go through it carefully just like we wanted you to go  
24 through Defendant's Exhibits 963 and 1111, and you don't  
25 find the offensive line that you are wondering about.

18:00 1 It's not listed, and the individual players aren't listed,  
2 not a single one. So what do you have? You have four Red  
3 Skins on the so-called Dallas Cowboys offensive line. You  
4 have the Red Skin coach who approves the players and  
5 disbands the unit. You have the locker room posters of  
6 Cowboys and Red Skins heroes. Not a single fan recognizes  
7 this group as the Dallas Cowboys offensive line. So you  
8 are convinced, but you take one more step. You hire a  
9 lawyer just like the Holy Land hired John Bryant, and you  
10 go to the commissioner and sit down and ask him about it  
11 and the commissioner doesn't give you an answer.

12 Ladies and Gentlemen, if everything happened  
13 just like I described it, there is no way that you would  
14 believe beyond a reasonable doubt that this group of men,  
18:00 15 that this offensive line was the Dallas Cowboys offensive  
16 line, but that's what the government wants you to believe  
17 here, and remember Mr. Jonas in his closing remarks -- and  
18 I quote -- "If HAMAS cannot take credit, then the people  
19 will not know who to support." I could not agree more  
20 with Mr. Jonas.

21 What about the other witness we presented to  
22 you. John Bryant. You know the Holy Land Foundation --  
23 Look at who they hired. John Bryant doesn't really have a  
24 dog in this fight either. He was a U.S. Congressman for  
25 fourteen years. Ambassador for Switzerland for a term.

18:00 1 He had a top secret clearance. He was hired to  
2 investigate and deal with it -- deal with these  
3 unattributed newspaper reports dealing with the Holy Land  
4 Foundation. And he hear about Mr. Ghassan Elashi, that he  
5 was worried about the reputation of the charity. He cared  
6 about that because he knew people would suffer. They  
7 ended up suing, the Holy Land Foundation. He met with the  
8 charge of the Israeli embassy to ask for guidelines. He  
9 said the reports were inspired -- Mr. Bryant -- that these  
10 defaming reports were inspired by the Israeli government  
11 or pro-Israeli lobbyists. He told -- The Charge D'Affairs  
12 told him he would get back to him, and when he didn't, Mr.  
13 Bryant told you he called him, and what did the gentlemen  
14 say? I can't talk to you. My government won't allow me  
18:00 15 to talk to you anymore. Mr. Bryant met with the FBI three  
16 times. Once in Dallas and twice in Washington, D.C., and  
17 Mr. Elashi and Mr. Baker went with Mr. Bryant to the FBI  
18 headquarters here in Dallas. John Bryant met with the  
19 Number 2 person in the counter-terrorism department. He  
20 told you that. A gentlemen by the name of Mr. Jennings.  
21 And what was the purpose of all of these meetings? To  
22 reach out and try to understand what were the sources of  
23 these reports. What can the Holy Land Foundation do  
24 differently? Were they doing anything wrong? And you  
25 heard in cross examination Mr. Bryant was asked you don't

18:00 1 expect the FBI to reveal a criminal investigation to you,  
2 and Mr. Bryant said I expect my government to inform an  
3 American citizen, to give him guidance in a complicated  
4 area.

5 Now, the government must prove to you that  
6 Ghassan Elashi -- And I'm quoting from the instruction  
7 that you will get -- willfully committed the crimes  
8 charged herein. Willfully means the act to which it  
9 refers was committed voluntarily and purposely with the  
10 specific intent to do something the law forbids; that is  
11 to say, the bad purpose either to disobey or disregard the  
12 law.

13 Let's see what Ghassan Elashi says about  
14 complying with the law. Government's Exhibit 13-83 is a  
18:00 15 conversation between Mr. Elashi and Shukri Baker that took  
16 place on April 23rd, 1996, and I told you about this  
17 conversation. I told you about this conversation in my  
18 opening remarks. This conversation is very, very  
19 important, we submit, to the determination of Mr. Elashi's  
20 innocence. Okay? I am going to read you a few portions  
21 of it, not the entire portion, and you can see what both  
22 Mr. Elashi and Mr. Shukri Abu Baker were thinking on April  
23 23rd, 1996. And they are talking about this new law and  
24 Shukri Abu Baker says, it is this article only. It talks  
25 about affiliates. I mean in the legal language there is

18:00 1 no text relating to the affiliates.

2 I am going to skip around. And he says I think  
3 that's how they think they can stop those, by saying this  
4 is the list of all the organizations, foreign  
5 organizations. And Ghassan says, I mean, are they going  
6 to go to the bank in Gaza and say that this so and so  
7 charitable organization, this charitable society and that  
8 university and this hospital are?

9 And Shukri says, "The best is how they must do  
10 it."

11 And Mr. Elashi says, "But this is injustice."

12 And Mr. Baker says, "Of course. Do you think  
13 we're speaking about justice?" Here is what Mr. Baker  
14 says. This is important for your consideration. He said  
18:00 15 "What was I telling you? Whatever. The law can have some  
16 interpretations, but there isn't much room for moving.  
17 Meaning, this is what is going to happen, that they will  
18 have to tell you what among the foreign organizations you  
19 were not allowed to deal with, and you have to abide by  
20 that. I see most of the talk is going that direction, as  
21 little as they can do. By God, close down or they will  
22 have to -- The burden of proof is there. They have come  
23 up with the list. Without that list I don't think they  
24 can enforce anything."

25 Let's go on. What does Mr. Elashi say? He's



18:00 1 concerned. "This means that they will have an economic  
2 siege, the organizations which they think have a  
3 connection with HAMAS inside Palestinian which constitute  
4 a large segment of the sociable and charitable existence  
5 of Palestine. This is considered an economic siege over  
6 the Palestinian people. What this means is this issue is  
7 a huge political issue."

8 Now, this is a wire tap. This is a wire tap.  
9 Unguarded remarks between Mr. Elashi and Mr. Baker. And  
10 it says "This issue is considered a crime. I imagine it  
11 is a crime. Therefore, I imagine if anything like that  
12 happens we have to be" -- What? Does he say we have to  
13 break the law? We have to hide? We have to conceal? No.  
14 He says, "We have to be very, very, very outspoken."

18:00 15 That's what he says. And then he says and passionately,  
16 "I don't care about the law," and Mr. Baker, "No, you have  
17 to be." And Ghassan, "Explain it to me." And Shukri  
18 says, "You have to be very outspoken because it is clear  
19 they are going to -- they are going to -- that you are  
20 singled out." And Ghassan said, "I don't care, I don't  
21 care about the law. I care this is injustice, a sanction  
22 against the Palestinian. It is, yes. And Shukri says,  
23 "Meanwhile you have to abide by the law. You can raise  
24 your voice." And what does Ghassan say? He says, "I am  
25 going to abide by the law because I won't be able to make

18:00 1 a transfer. I know that. But meanwhile, what I'm going  
2 to do" -- He's going to be severely outspoken. "I am  
3 going to put my neck on the whole issue because this  
4 shouldn't happen."

5 What is this? This is a debate about the law.  
6 That's what this is. This is a concern. They are  
7 thinking down the line. What is this going to mean to the  
8 charity? And Ghassan, "Is it enough that Israel is  
9 placing a siege on the Palestinian people? And then comes  
10 America with its might wanting to place a siege on a  
11 hospital." And Shukri says, "They will be very clear that  
12 this siege -- After they release the list, it's going to  
13 be crystal clear that this is racism against the  
14 Palestinian people." You know, they are just talking.

18:00 15 This is speech. They are upset. They are angry. And  
16 Shukri goes on. And then Ghassan says, "You know, I will  
17 tell them, fine. Okay, you guys, I'm with you. Send me a  
18 list of the organizations you consider to be terrorist  
19 organizations, and I won't send to them." That's what he  
20 says. We're just guessing because we don't know what they  
21 will be sending. They don't know. At that point, April  
22 23rd, 1996, guess what, no Zakat Committees on any list,  
23 and you know what? Today, September 19th, 2007, no Zakat  
24 Committees on the list.

25 And Ghassan says, "What I'm trying to say is

18:00 1 they will be sending you a list, and if you tell them,  
2 okay, I am going to abide by your law, just give me the  
3 list, and I'll do whatever you want, and then the matter  
4 goes unchallenged politically and legally." And we know  
5 that Mr. Elashi is someone who challenges legally. He  
6 hires lawyers and goes and finds out what's going on.  
7 He's not going to be silent. He's not protecting himself;  
8 he's thinking about the children and those needy families.  
9 Ghassan says, "You understand me? They tell you so and so  
10 charitable organization which has three hundred orphans,  
11 all of whom are children of families of martyrs, don't  
12 send money to them because their parents were members of  
13 Islamic Movement. Are we going to say yes? This is my  
14 point. Of course, I'm not going to be able to transfer  
18:00 15 the money because even if you tried to transfer the money,  
16 they will cut it off. You won't be able to transfer it in  
17 the first place. Understand what I mean?"

18 And Shukri says, "Yes, yes."

19 And Ghassan, "But what is my answer to them? I  
20 think in my publication and everywhere I go I am going to  
21 say this."

22 He's going to talk about it. He's going to  
23 complain. That's who Mr. Elashi is because he's thinking  
24 about the children. He's thinking down the line.

25 And he says, "Okay, just give me the list, and

18:00 1 I'll make sure that I'm not going to transfer."

2 He understands he's got to comply with the law.  
3 He knows that. He doesn't like it, and he wants to  
4 understand what the ramifications of it are. So please  
5 consider that evidence with respect to what Mr. Elashi's  
6 state of mind was, and you are going to get a jury  
7 instruction again for willfully. And we know that the FBI  
8 has been listening since 1993 to the Holy Land Foundation,  
9 and they knew that Ghassan and Shukri had discussed the  
10 list in 1996. We know that. There is the wire tap. And  
11 we know that they are waiting to see if the Zakat  
12 Committees ever made it on the list. We know that. We  
13 know they still haven't made it on.

14 And again, look at that jury instruction for  
18:00 15 willfully. Did Ghassan Elashi have the specific intent to  
16 do something the law forbids with bad purpose? No. When  
17 he hired a lawyer to go right to the FBI, to the State  
18 Department, to the Israeli Embassy? Is that how someone  
19 who's intending to break the law acts or is that how an  
20 innocent person behaves.

21 Now, let's look at the witnesses the government  
22 presented to you. And this is the instruction that the  
23 Judge will give you about credibility. This is the  
24 instruction, and you must be guided by this, not only for  
25 their witnesses but for our witnesses as well. And you

18:00 1 know it's just common sense. We have all met people who  
2 we think you know what? He's a liar; I don't believe a  
3 word out of his mouth. And you have met other people that  
4 you think they have real credibility; they have  
5 integrity. And that's what part of these instructions  
6 are telling you. They are saying here are the different  
7 factors you should take into consideration when looking to  
8 see if they tell the truth. Do they impress you as  
9 honest? Do they have a reason not to tell the truth? Do  
10 they have a personal interest in the outcome of the case?  
11 Did the witness have any relationship to the government or  
12 the defense? Did they seem to have a good memory? Did  
13 the witness clearly see or hear the things about which he  
14 or she testified? Did the witness have the opportunity  
18:00 15 and ability to understand the questions and answers? Did  
16 the witness' testimony differ from the testimony of other  
17 witnesses?

18 Let's start with Dr. Levitt. He starts with a  
19 conclusion and ends with facts supporting it. Mr. Dratel  
20 touched on it. What I want to say to you is this. Is  
21 Dr. Levitt, former FBI, Treasury Department agent -- does  
22 he have a relationship with government? Yes. Does he  
23 have an interest in the outcome in this case? We submit  
24 he does: Lobbyist for Israeli organizations. His book  
25 HAMAS started out as a policy monograph. You know what

18:00 1 that is? That is a fancy word for propaganda. Accuracy  
2 is not the goal here, and we know that Dr. Levitt -- He  
3 can't tell you what the inside of a Zakat Committee looks  
4 like, but to say -- and I'm quoting -- "Oh, I'll have to  
5 go to a Zakat Committee some day." He can tell you what  
6 the inside of the FBI looks like and the inside of  
7 Treasury, but he can't tell you what the inside of a Zakat  
8 Committee looks like, although he has been over there?  
9 Did he have a personal interest in the outcome of this  
10 case? Did he have a relationship with the government?  
11 Yes.

12 Now we come to Major Lior. Not his real name.  
13 Or as I like to call him one face of the occupier. Now,  
14 he was brought here to tell you about the Operation  
18:00 15 Defensive Shield, and we know from Mr. Abington the former  
16 Consul General in Jerusalem, the eyes and ears of our  
17 country -- we know he told you that this Operation  
18 Defensive Shield was a particularly nasty bloody incursion  
19 by Israeli soldiers into the West Bank, literally  
20 plundering all kinds of institutions. And what did he  
21 tell you about that? Quoting from the transcript he said,  
22 "They went into many industries and scarfed up anything  
23 that seemed to have particular relevance." They took bank  
24 records. They seized a wide variety of documents, and  
25 after Operation Defensive Shield which essentially

18:00 1 destroyed the Palestinian Security Services, Israeli Army  
2 and Israeli undercover units operated at will throughout  
3 the West Bank and continue to do so to this day. Seized  
4 documents and arrested people. And that's basically the  
5 case for the last five or six years. And we know from  
6 Nathan Brown, the advisor to U.S. intelligence agency that  
7 the Operation Defensive Shield took school secondary  
8 documents. Those are children's records. Children's  
9 school records. Why would they take children's school  
10 records? Why would they do that? Well, Major Lior was in  
11 charge of all of that. Now, he couldn't tell you exactly  
12 where those items that were paraded before you -- those  
13 key chains and posters -- were taken from or even  
14 presumably who took them, but they were taken from a  
18:00 15 general locale.

16 Go back to the instruction. Did he have any  
17 particular reason not to tell the truth? Did he clearly  
18 see or hear the things about which he testified? He also  
19 shared with us through cross examination that for all he  
20 knew some of these items could have been retrieved from  
21 the trash can because he had orders to search the trash  
22 cans and he obeys orders. Okay? And you know that's  
23 important because it should weigh in your determination  
24 what, if anything, this evidence means, where this comes  
25 from.

18:00 1           Let's go to Avi. Mr. Avi, not his real name.  
2       The second face of the occupier in this courtroom. Now,  
3       the most powerful, richest government in the world, our  
4       government, they could scour the finest universities in  
5       the world for experts in the field of Zakat Committees --  
6       Oxford, Princeton. They could go to governments of  
7       neutral countries. They could go talk to ambassabors,  
8       consul generals. They could talk to pollsters in  
9       Palestinian societies and bring you those experts to bring  
10      you the best evidence for their theory that these Zakat  
11      Committees are controlled by HAMAS. And who do they bring  
12      to you? They bring you the security agent of the foreign  
13      power -- and not just any foreign power but the occupier.  
14      They bring you the Israeli security agent to render an  
18:00 15     opinion about Palestinian Zakat Committees. Rather than  
16      bring you someone who can give you a good opinion, they  
17      bring you somebody who gives you the partisan party line  
18      because, Ladies and Gentlemen, this is the best they could  
19      do. This is the only guy they could find to support this  
20      theory, this theory that people who know what they are  
21      talking about thoroughly discredit. And you should be  
22      guided by the credibility instruction. Was he honest?  
23      Did he have a personal outcome? So what did he tell you?  
24      Remember he was offered to you as an expert. And his  
25      Honor read you an instruction that his honor didn't



18:00 1 endorse any of the opinions of Avi, and in fact, you will  
2 get another instruction on expert testimony, and here is  
3 how it reads: "Merely because such a witness has  
4 expressed an opinion does not mean that you have to accept  
5 that opinion." You should judge his testimony like any  
6 other testimony. You can accept it, reject it. You can  
7 give it as much weight as it deserves and what did Avi  
8 tell you? Well, he told you he had never been to a Zakat  
9 Committee. He had never been to one. Kind of like  
10 Levitt. And he was asked, "Have you ever read a book  
11 about a Zakat Committee?" And he said I never read --  
12 couldn't find a book about the specific Zakat Committees.  
13 Maybe he didn't hear about Dr. Levitt's book. And then he  
14 was asked, "That's not my question. Have you ever read a  
18:00 15 book about Zakat Committees?" And he said, "The book or a  
16 title? You have to define a book about the subject matter  
17 of Zakat Committees. I didn't read a book. I assumed  
18 maybe there is. I would like to read it." That's what he  
19 said. Did the witness clearly see or hear the things  
20 about which he has testified.

21 Now, we learn in this trial, Ladies and  
22 Gentlemen, that Avi does not need to read or study about  
23 Zakat Committees because he has special abilities. Avi is  
24 somebody who told you he can smell HAMAS. Remember, he  
25 said the Nablus Zakat Committee was so permeated with

18:00 1 HAMAS, you could smell it. The color of HAMAS, the smell  
2 of HAMAS, it's everywhere in the Nablus Zakat Committee.  
3 Now, this is remarkable given that, of course, Avi never  
4 set foot in the Nablus Zakat Committee or any other Zakat  
5 Committee, but he could smell HAMAS. Of course, Mr.  
6 Abington, Dr. Brown dispute that. Avi said that Hammimi's  
7 dispute with HAMAS was nothing but a family dispute and he  
8 was always HAMAS. Remember that? Well, the United States  
9 Government disagreed with him, and if you remember the  
10 testimony that the information agency that brought Mr.  
11 Hammimi over -- They read his name. Remember that  
12 testimony? They read his name as a background check to  
13 see if this guy was a criminal, was a terrorist. Nothing.  
14 He was invited. He was welcome. But Avi knows better.

18:00 15 He considered InterPal and Al-Aqsa HAMAS charities.  
16 Remember that interchange? The British charity committee,  
17 they investigated, and they cleared them, and Avi said,  
18 "Well, they clearly didn't have my evidence." Clearly  
19 they didn't have any evidence. What evidence? What  
20 evidence is that? Is it based on any scholarship, on any  
21 personal field experience? This man has never been to a  
22 Zakat Committee, never read a book about Zakat Committees.  
23 Hasn't spoken to any donor families. He claimed he looked  
24 at documents that occupying soldiers seized in military  
25 operations. He watched some TV. Go back to the

18:00 1 instruction. Did he was any relationship with the  
2 government or the defense? Avi considers all the Zakat  
3 Committees in the indictment HAMAS charities. But the  
4 Israeli Government disagrees with him. You know why? You  
5 know how we know that? Because they gave a license to the  
6 Jenin Zakat Committee which Avi said was HAMAS. They gave  
7 them a license to build Al Razi Hospital in 1993. That's  
8 Exhibit 1070. Mr. Dratel referred to it. And you  
9 remember what Avi said: It was clearly HAMAS by 1991.  
10 That's what he said. But his own government disagreed  
11 with him because they gave a license to build this  
12 hospital. And remember Mr. Cline's cross examination of  
13 Avi about the boards of these Zakat Committees. Very  
14 important, the boards of these Zakat Committees, for you  
18:00 15 to determine and understand about control. "Are the  
16 members of the boards of these Zakat Committees -- Do they  
17 have to be approved by the Palestinian Authority?"  
18 "Correct."  
19 "Your view is the Jenin and Nablus Zakat  
20 Committees are also HAMAS?"  
21 "Correct, that's my opinion."  
22 "Here is my question: Do you know whether the  
23 Palestinian Authority had to approve the Zakat Committee  
24 boards during the period 1997 to 2001, the period -- the  
25 relevant period in this case?"

18:00 1 And he said, yes, they had to be approved by the  
2 Palestinian Authority, the bitter foe of HAMAS.

3 THE COURT: Ms. Moreno, you have thirty minutes  
4 remaining.

5 MS. MORENO: Thank you so much, your Honor. Go  
6 back to the analogy. And Mr. Cline further asked him "At  
7 least as of June 29th, 2001, they have not been  
8 designated, correct?" And he said correct. "And to this  
9 day they have not been designated?" Correct. You know he  
10 summed up his opinion for you. Avi said -- I don't know  
11 if you caught this. I thought this was very interesting.  
12 He said "In Hebrew, we have an expression. It is 'This is  
13 the whole story in one leg.'" You cannot stand on one  
14 leg, Ladies and Gentlemen. And that's what the testimony  
18:00 15 of Mr. Avi was about, and that's what the government's  
16 theory of prosecution is about. And we know, of course,  
17 that Avi considered the Holy Land Foundation a HAMAS  
18 charity, but we also know that Palestinian Authority  
19 Ministeries, a bitter foe of HAMAS, disagreed with him.  
20 How do we know that? They praised the work of the Holy  
21 Land Foundation. And we also know that Mr. Abington met  
22 daily with Yasser Arafat. Remember he said four or five  
23 times a week. Did Yasser Arafat ever tell him that the  
24 Holy Land Foundation or these Zakat Committees were HAMAS?  
25 No. Avi said in his opinion investing in education serves

18:00 1 HAMAS's goals. Remember his theory -- You know what? You  
2 know what he's telling you really? He's telling you that  
3 Palestinian children should not be educated. That's what  
4 Avi is telling you. That's what he believes. We know  
5 from Mr. Abington that occupational forces believe the  
6 same when they would close down schools for years. That's  
7 what he told you. Schools were closed down for years.  
8 Avi doesn't believe in providing humanitarian support and  
9 aid to children. Remember he was talking to you about  
10 this suicide culture, and he said even if they support  
11 kids -- these funds support kids with humanitarian aid --  
12 what is the point with the humanitarian assistance? What  
13 is the point in helping these children if that's what they  
14 are being taught? Avi talks about encouraging the suicide  
18:00 15 culture of children with absolutely no recognition of the  
16 violent circumstances that his own government rains down  
17 on Palestinian children. He doesn't care about  
18 Palestinian children. I think Avi forgot in an American  
19 courtroom he was obligated to give you credible, authentic  
20 and honest evidence. You look at the jury instruction.  
21 He violates almost every single rule.

22 My cross examination of Agent Burns. Again, the  
23 Document 4-21 that the government keeps using, and I think  
24 we clearly established that in that document what the  
25 social and charitable work that was discussed is under the

18:00 1 department of the what? The Muslim Brotherhood, not  
2 HAMAS. So their theory in that regard is thoroughly  
3 discredited. And I'm not endorsing that document by the  
4 way. That's one from that black hole of Mr. Ashqar's  
5 residence. We don't know who wrote it, why they wrote it.  
6 We don't even know if they even knew what they were  
7 talking about. But that's what their document says. They  
8 don't like what their own evidence says.

9 On the deportee issue, you heard a lot about  
10 those deportees. You might even see the video run more  
11 times about those deportees. Okay? Here is what we know  
12 about those deportees that we found out in cross  
13 examination through Lara Burns. Four hundred fifteen  
14 people were plucked from the Occupied Territories and  
18:00 15 taken and dumped in Lebanon, and that's what we know. And  
16 some of them, no question were HAMAS. Absolutely no  
17 question about it. No question. They were taken from  
18 their homes and put in this forest. But you know that  
19 created a crisis, and we as a people, Americans, we don't  
20 believe in the punishment of exile. We don't exile  
21 people. So we joined the international community, the  
22 United Nations Resolution 799. Remember that? The U.N.  
23 Resolution 799. And this is when the United States joined  
24 the world in condemning the deportation of these people,  
25 and it said they strongly condemn the actions taken by

18:00 1 Israel, and they demanded that Israel, the occupying  
2 power, insure the safe and immediate return to the  
3 Occupied Territories. That's what the U.S. Resolution 799  
4 says about those deportees. There is no question that  
5 some of them were HAMAS.

6 But think of the actions behind it. My cross  
7 examination of Agent Burns on the issue of martyrs. Just  
8 briefly. You know, I just want you to remember about  
9 Elbalbissi. He was the paramedic whose family was on that  
10 tape, the tape the government didn't play you that part.  
11 They don't want you to know about that part. Mr.  
12 Elbalbissi was shot while he was trying to save the life  
13 of another Palestinian child who was shot. And he was  
14 considered a martyr, and the child was considered a martyr  
18:00 15 and Agent Burns agreed with me about that.

16 The daily life of Palestinians. You know, what  
17 we know is that it's harsh, and it's a cruel occupation.  
18 We know this. We have heard evidence. It's tragic,  
19 depressing, sad. This is what the Holy Land Foundation,  
20 however, was responding to. That's what they were  
21 responding to.

22 We heard about the exclusive use of roads. We  
23 heard that after the massacre at the mosque -- twenty-nine  
24 Muslims were praying -- by Barouk Goldstein. We heard  
25 that Israel imposed a two-month curfew on the Palestinians

18:00 1 and established easier access for Jewish people to pray at  
2 that site and diminished the access for the Palestinians  
3 to worship. It seems a cruel irony that after the mass  
4 murder of Palestinians that Palestinians should be  
5 punished.

6 Remember what did Abington tell you, the daily  
7 life of Palestinians. He talked about the exclusive use  
8 of roads and about how they take over the land. Okay?  
9 And he talked about the home demolitions, the destitute  
10 families, and he said that Palestinians had no legal  
11 rights. That's what he told you. And he told you that  
12 Israel was currently holding ten thousand Palestinians  
13 under detention and never tried them. He told you that  
14 people get arrested -- people get arrested for having the  
18:00 15 Palestinian flag, for having candles with the colors of  
16 the Palestinian flag. That's what he told you. Do you  
17 think he was lying to you about that? He told you that no  
18 child should ever have to die like this. He told you  
19 about the eleven year old Palestinian boy that was kicked  
20 to death by Israeli security guards in a Jewish settlement  
21 near Bethlehem.

22 Edward Zeid. Edward Zeid was a  
23 Palestinian-American professor at Colombia University. He  
24 heard about Edward Zeid. You heard about him. Matthew  
25 Levitt talked about him, and his voice was a respected



18:00 1 voice on the issue of Palestinian and Israeli people. And  
2 he described the Palestinians as victims of victims.  
3 Victims of victims. And you wonder in looking at this  
4 kind of graffiti that he was right.

5 Now, he talked about this calendar. You  
6 remember the calendar, this calendar that Mr. Jonas  
7 pointed out to him. There was twelve pictures, this  
8 school calendar that was taken. There are twelve pictures  
9 on this school calendar. Okay? Twelve pictures. What  
10 does Mr. Jonas do? Again, back to the selective bias. He  
11 looks at two pictures out of the twelve. You can look at  
12 this in the deliberating room. Okay? You can look at  
13 this, and there are pictures of a soldier with children, a  
14 child throwing stones, a child running, a child in a  
18:00 15 demolished home. This is about the violence against  
16 children. That's what this is about, but Mr. Jonas wanted  
17 the witness to focus on the burned up bus, which by the  
18 way there is no evidence that anybody in this case  
19 supports burned out busses.

20 And certainly Mr. Elashi doesn't support  
21 violence against innocent civilians, but Mr. Jonas wanted  
22 the witness to focus on two pictures and not the rest of  
23 them. They keep running these videos for you, these  
24 tragic videos of children and these war skits with these  
25 suicide vests. You know Holy Land Foundation, Ghassan

18:00 1 Elashi, had nothing to do with those videos. These are a  
2 6 series of videos, not found at the Holy Land Foundation,  
3 not found at Infocom. Ghassan Elashi didn't discuss this  
4 video, didn't endorse these videos, nothing to do with  
5 Ghassan Elashi, but they played them over and over, and I  
6 suspect that Mr. Garrett is going to play them again for  
7 you, and I ask you when he does that, who's really  
8 exploiting the children in this courtroom? There is a  
9 video that they will probably play for you again, and in  
10 it -- It's the one with the child with the suicide invest.  
11 In it a girl says the following words. She says, "You do  
12 not know me, oh, soldier. You are afraid of my childhood,  
13 afraid of my small fingers and of my dreams. You can  
14 grasp the color of my shirt, but you will not be able to  
18:00 15 grasp my heart. You are afraid of my toy and notebook and  
16 my books. And you are afraid of my toy and notebook and  
17 my books. And I am looking you in the eyes. I'm looking  
18 you in the eyes. What right do you have for me to give  
19 you my homeland?" You have to look at the context, what  
20 inspires children to do this, to have these.

21 Let me tell you something. In America, children  
22 can play violent video games all day long. They engage in  
23 virtual games of violence, violent TV. But in America,  
24 they can shut off the fantasy of violence and retreat to  
25 the safety and comfort of their beds and homes. The

18:00 1 children in Palestinian cannot turn off the fantasy of  
2 violence. They live in a state of war. They see the  
3 graffiti. They see their fathers can't go to work because  
4 of checkpoints. They have no privacy. This is how the  
5 children of Palestine live. This is who the Holy Land was  
6 helping, not encouraging the culture of suicide. This is  
7 a family that doesn't have a front door. They have a torn  
8 blanket for their front door. This is how the children of  
9 Palestine live.

10 Very briefly, just some final matters. Adli  
11 Yaish, he told you that the government met with him six  
12 times, and they never called him to the stand, and he said  
13 the Holy Land Foundation books were open and transparent.  
14 He told you there were yearly independent audits of the  
18:00 15 Holy Land and the support was only to the needy. He told  
16 you there wasn't any fraud in the tax returns. And the  
17 government -- Here we go, Government's Exhibits 11-20 from  
18 1992. And we see that it's listed that Mr. Marzook -- Mr.  
19 Marzook, \$210,000. There it is, 1989 through 1992. Again  
20 down here. \$210,000. We see that. And you know what?  
21 There is no deceit. There is no concealment, and more  
22 importantly in 1992, there is absolutely no crime.  
23 Absolutely no crime.

24 Now, I just want to briefly say to you that if  
25 you find that Ghassan Elashi did not support HAMAS and he

18:00 1 did not support HAMAS, then you have to acquit him of the  
2 money laundering and tax charges because it's the same  
3 theory. If you are not absolutely convinced he supported  
4 HAMAS, you must acquit on all the charges.

5 Briefly, some responses to Mr. Jonas closing.  
6 He showed you Exhibit 3-8 about Ghassan Elashi going to  
7 Britain and insinuating that Ghassan Elashi was setting up  
8 some sort of international network charity. There is no  
9 evidence of that. That's just another insinuation. There  
10 is absolutely no evidence. He just went to Britain. No  
11 evidence that he met with anyone, talked with anyone,  
12 organized any kind of a network charity. They don't have  
13 the evidence to tell you it exists when it doesn't.

14 13-21, the conversation between Shukri and  
18:00 15 Ghassan about the Dallas Morning News. You know what? It  
16 doesn't suggest that the Holy Land Foundation is  
17 associated with HAMAS. It's what the editorial writing  
18 means. Take a look at the conversation. They are  
19 manipulating what the conversations really mean.

20 We have heard about the First Amendment in this  
21 case, associational evidence and the discussion of free  
22 speech, and you know the founding fathers put free speech  
23 first. That's how important it is, and you have to keep  
24 in mind the First Amendment when you are looking at these  
25 conversations and perhaps some of the comments that you

18:00 1 see of Mr. Elashi or others in these conversations.

2 We have heard about the Israelis visiting the  
3 sins of the father on the child. We have heard about that  
4 and their collective punishment of house demolitions.  
5 That's a very alien concept to Americans. We don't do  
6 that. We don't believe in that. We don't punish children  
7 for the sins of their fathers, and as Mr. Westfall  
8 discussed with you yesterday, we don't convict people on  
9 the basis of their associations. That's in the First  
10 Amendment. Freedom of association.

11 In this trial, the government wants to visit the  
12 sins of the half brother of the HAMAS leader and visit the  
13 sins of the cousin of Mr. Ghassan Elashi and visit the  
14 sins of unknown authors and unknown parties against these  
18:00 15 men. This is unAmerican, Ladies and Gentlemen, and you  
16 should reject this. Mr. Jonas ended his closing argument  
17 with a cynical remark about Holy Land helping to create  
18 widows and orphans. That's what he said. It's insulting.  
19 It's an insult to the work for twelve years, the millions  
20 of dollars. Take a look at Defense 10-93, the grants  
21 list, the list of grants of projects of the Holy Land.  
22 That begins in 1993, begins in 1993 with aid to needy  
23 families, and it ends with aid for the Friends of the  
24 Blind Association in the year 2000. Creating widows and  
25 orphans?

18:00 1 Now, I wonder where those families go now.  
2 Where do those children go? Where do those needy families  
3 go? Do they go to the Government of Israel? Does the  
4 cynicism and cruelty of this prosecution inspire any hope  
5 that these people will be helped.

6 Ladies and Gentlemen, this case will say a lot  
7 about us as a people. You took an oath that requires that  
8 you must take into account the views of your fellow  
9 jurors. But after hearing those views and considering  
10 them, if your conviction still compels your vote, you hold  
11 fast in that. When you go into that deliberating room  
12 without lawyers, without a judge, the system leaves it up  
13 to you. It honors you. Only you can preserve the  
14 integrity of this process. You know, this is the one  
18:00 15 time in your life when you know that your vote really  
16 matters.

17 When I sit down, Mr. Garrett will get a chance  
18 to give a rebuttal, a summation that I will not have a  
19 chance to answer, and those are the rules, and that's  
20 correct because they've got the burden of proof. They  
21 have to prove these charges beyond not some reasonable  
22 doubt -- every single reasonable doubt against Ghassan  
23 Elashi.

24 And we hope you remember that is their burden.  
25 We're asking you to be courageous, to -- Please to look

18:00 1 beyond the fear, beyond the fear that they are trying to  
2 impose in this courtroom. Look beyond the prejudice and  
3 look beyond the politics of this cynical prosecution.  
4 Ghassan Elashi did all he could to support and comply with  
5 the law. He did not support HAMAS. He supported his own  
6 people. We want you to use your common sense, Ladies and  
7 Gentlemen, and your sense of justice and the evidence  
8 requires and justice compels you to return a verdict on  
9 behalf of Ghassan Elashi on all counts of the indictment.  
10 Thank you.

11 THE COURT: Ladies and Gentlemen, we'll take our  
12 mid-morning recess at this time. We'll be in recess until  
13 10:50.

14 (Recess)

10:51 15 THE COURT: Ladies and Gentlemen, the last of  
16 the closing arguments will be presented by the government  
17 in the person of Mr. Garrett.

18 Mr. Garrett, you have about two hours and forty  
19 minutes of the time allocated to the government remaining.  
20 So I think it's inevitable that we have to break up your  
21 presentation. We don't have to do it exactly at noon if  
22 that's a bad place, but I would like to do it within five  
23 or ten minutes of noon. So you might be looking for a  
24 good place to recess so I don't arbitrarily interrupt an  
25 important point for you.

10:52 1           Would you like any warnings from me about your  
2       time?

3           MR. GARRETT: Not because of the lunch break,  
4       your Honor.

5           THE COURT: Thank you.

6           MR. GARRETT: Please the Court.

7           THE COURT: Yes, sir.

8           MR. GARRETT: Ladies and Gentlemen of the Jury,  
9       Defense Counsel, Members of the Prosecution, Ladies and  
10      Gentlemen. Now I get to say you are at the end of the  
11      road. This is it. It's almost yours. This is what we  
12      call rebuttal. This is where the United States gets the  
13      opportunity to stand up and talk about some of the things  
14      the defense said, some of the points that they have tried  
10:53 15     to make with you.

16           It's also an opportunity for us to do what I  
17      think is most important and bring you back to center,  
18      bring you back to what is important, bring you back to the  
19      questions that you must answer and take you away from the  
20      questions that you don't have to answer.

21           I will tell you in all candor there is a real  
22      temptation when you are sitting here and you are listening  
23      to that and you are called out -- that you are lying,  
24      misrepresenting, hiding, concealing -- that's hard. Maybe  
25      that's how I was raised. Maybe that's who I represent. I



10:53 1 don't know. Maybe it's as much about my personality as  
2 anything. It's part of me where my head wants to spin  
3 around when I hear that. But there is another part of me  
4 that sits back and says that's okay because that's all  
5 they've got. I am going to bring you back to center. I  
6 am going to bring you back to the questions that you need  
7 to answer, and at the end of the day, it's up to you to  
8 decide who's leading or who's misleading, and I'm okay  
9 with that.

10 Back to basics. What we have asked of you folks  
11 is entirely unreasonable, to come in here and sit for  
12 seven or eight weeks and listen to us talk incessantly,  
13 look at literally hundreds and hundreds of documents.  
14 That's unreasonable. You came in here and asked for a  
10:55 15 drink of water, and we turned on the firehose. That's  
16 unreasonable. I want you to take your time. I don't want  
17 you to rush to judgment. I want you to look at our  
18 evidence. And I want you to -- I want you to look at  
19 their evidence. We do have the burden of proof, Folks. I  
20 take it. I embrace it. No one will believe more strongly  
21 in this system than I do. I accept it.

22 What do I want you to use more than anything  
23 else when you do your job? More than anything else I want  
24 you to bring your life experiences. I want you to bring  
25 your common sense, your God-given common sense and reason.

10:55 1 That is all you need. You don't have to have a Ph.D. from  
2 Princeton. You don't have to have a lot of the  
3 credentials from these other folks you have heard about.  
4 You just need good God-given common sense.

5 There is an instruction that the Court is going  
6 to give you that I want to quote from, and it's perhaps  
7 the most important instruction you may read. On Page 2,  
8 the Court will tell you, you should consider only the  
9 evidence. "You are permitted to draw such reasonable  
10 inference from the testimony and exhibits as you feel are  
11 justified in the light of common experience. In other  
12 words, you may make decisions and reach conclusions that  
13 reason and common sense lead you to draw from the facts  
14 that have been established by the evidence." In other  
10:56 15 words, it's okay -- and in fact, it's expected -- that you  
16 use your common sense and your common experience in  
17 looking at this evidence and putting evidence together.  
18 That's the reason we don't have juries made up of just  
19 auditors. Our system contemplates a jury made up of  
20 persons from all walks of life, from all experiences in  
21 life, who bring their common sense and reason into the  
22 juryroom. That's what our system is based upon.

23 Back to basics. Back to basics. The defendants  
24 are correct that HAMAS was not designated until 1995.  
25 Why? There was no such law until 1995. Charter member,

10:57 1 HAMAS, 1995 law. Charter member of the 1996 law beginning  
2 in 1997 when it came out. HAMAS. But the story must be  
3 told from the beginning. To understand the actions of  
4 these defendants and what they did, you must understand  
5 the story from its beginning, and that's why we took you  
6 through this story from its beginning, a story which began  
7 with the intifada in 1987, HAMAS's birth and the creation  
8 of the Palestine Committee in the United States which gave  
9 birth to the Holy Land Foundation.

10 After the intifada in 1987, Sheikh Ahmad  
11 Yassin -- And you heard that name a lot. He was the  
12 leader of the Muslim Brotherhood in Palestine -- would  
13 become the founding father, the spiritual leader of HAMAS.  
14 Sheikh Yassin and his followers decided to create a new  
10:58 15 resistance arm, a new organization born in the bosom of  
16 the Muslim Brotherhood, just as it said in the documents,  
17 just as it was said by Dr. Levitt, just as it was said by  
18 Dr. Brown.

19 At the same time, the Muslim Brotherhood general  
20 leadership issued directives to various nations that had a  
21 Muslim Brotherhood presence to form Palestine Committees  
22 dedicated to furthering and strengthening Sheikh Yassin's  
23 machinery that he established in Gaza to lead the  
24 resistance.

25 There has been some talk about this "hearts and

10:59 1 minds," and we're going to talk more about hearts and  
2 minds. Rest assured. But it all begins with HAMAS's  
3 charter and how HAMAS itself views social work. From  
4 Government's Exhibit 3-36 -- This is one of those black  
5 hole documents. We're going to talk a lot about the black  
6 hole documents. 3-36 is a copy of the HAMAS charter that  
7 you all heard about in your testimony. Article 21 of  
8 HAMAS's own charter, HAMAS's own words: "Part of the  
9 social welfare is providing aid to everyone who's in need  
10 of it, be it material or spiritual or collective  
11 cooperation to complete some works and upon the members of  
12 the Islamic Resistance Movement to look after the needs of  
13 the population as they would for their personal needs and  
14 an obligation upon them is that they should not spare an  
11:00 15 effort in not realizing it, protecting it, and they should  
16 avoid without foul play what might affect the future  
17 generations or what shall return any loss to their  
18 society. Because the masses is from them and to them. Its  
19 power is their power. It's future is their future. A  
20 duty upon all members of the Islamic Resistance Movement  
21 is to take part in the people's happiness and grief, and  
22 there they should take as their duty perceiving the  
23 people's demands and what realizes the people's benefit,  
24 and when this spirit of cooperation overwhelms, love will  
25 be deepened and cooperation and mercy will exist and ranks

11:01 1 will be strengthened in confrontation with the enemies."  
2 That's how HAMAS, in its own words, views social work.

3 We brought you 3-1 which was the Central  
4 Committee organizational chart. The Central Committee in  
5 3-17, same thing as the Palestine Committee.

6 This is the chart of the Central Committee for  
7 1991. You see the president, the industry committee and  
8 the organizations which include the IAP, the UASR, the  
9 Occupied Land Fund, which is the Holy Land Foundation, as  
10 part of this Palestine Committee. On into the content of  
11 the document it describes the members, the head Mousa Abu  
12 Marzook. Dr. Levitt testified in 1989 he assumed a  
13 position of leadership of the HAMAS terrorist organization  
14 worldwide. The man who would be the number one leader  
11:03 15 worldwide in the HAMAS terrorist organization set atop  
16 this committee with these defendants. Is it a  
17 coincidence? We'll talk more about coincidence.

18 The government also brought you 4-1 which is out  
19 of the home of Mr. Ashqar, another one of the  
20 coconspirators in this case. That document listed the  
21 membership of the Palestine Committee which included, of  
22 course, at the top Mousa Abu Marzook but also the  
23 Defendant Ghassan Elashi, the Defendant Shukri Abu Baker  
24 and the Defendant Mohamed El Mezain in addition to Mr.  
25 Ashqar and Mr. El Barasse.

11:04 1 We brought you 3-83 which described really the  
2 color of the group in America, and I quote just briefly.  
3 "The general strategic goal of the group in America which  
4 was approved by the Shura Council in the organizational  
5 year of the conference in 1987" -- Again, the year  
6 beginning the intifada, this organization and HAMAS -- "is  
7 enablement of Islam in North America, meaning establishing  
8 an effective and stable Islamic Movement led by the Muslim  
9 Brotherhood which adopts Muslims's causes domestically and  
10 globally and which works to expand the observant Muslim  
11 basis, aims at unifying and directing Muslim efforts,  
12 presents Islam as a civilization alternative and supports  
13 the global Islamic state wherever it is.

14 "Understanding the role of the Muslim  
11:05 15 Brotherhood in North America: The process of settlement  
16 is a civilization jihadist process with all the word  
17 means. The Ikhwan must understand that their work in  
18 America is a kind of grand Jihad in eliminating and  
19 destroying western civilization from within and sabotaging  
20 its miserable house by their hands and the hands of the  
21 believers so that it is eliminated and God's religion is  
22 made victorious over all other religions. Without this  
23 level of understanding, we are not up to the challenge and  
24 have not prepared ourselves for Jihad. It is a Muslim's  
25 destiny to perform Jihad and work wherever he is and

11:06 1 wherever he intends until the final hour comes, and there  
2 is no escape from that destiny except for those who chose  
3 to slack. But with the slackers and the mujahideen the  
4 fight be equal."

5 We brought you 3-5. These are just sentences.  
6 It's a report from 1989 to 1990. Involves the Islamic  
7 Association for Palestine, the Occupied Land Fund -- the  
8 defendant, the Holy Land Foundation -- and the UASR.  
9 Talking about its achievements and its celebrations and  
10 festivals which you have seen plenty of. At the very end  
11 on the recommendations and suggestions of the committee,  
12 "The Palestine Committee asks the government for moral  
13 support for this work and the committee overseeing it as  
14 it represents a strong arm and one which is specialized in  
11:07 15 defining the Islamic cause in Palestine and support for  
16 the emerging movement, the HAMAS movement."

17 We brought you 3-15. I want to read a couple of  
18 segments of 3-15. "Palestine is a land which God the  
19 Almighty has honored with the blood of the companions  
20 which watered its soil charting a path on which all great  
21 heroes such as Al Qassam, Al Hussein, Al Zeer, Jamjoun  
22 and Al Sa'adi and other grand Muslim men marched.  
23 Palestine is a land which moved from one honor to another  
24 by the arrival of the 20th Century innovator, Martyr Imam  
25 Hassan Al Banna, and they transferred it to the Muslim

11:08 1 Brotherhood Movement and branches for the Ikhwan were  
2 formed in the cities of Palestine in the early forties.  
3 Palestine is one for which the Muslim Brotherhood prepared  
4 armies made up from the children of Islam and the Arab  
5 Islamic nations to liberate its land from the abomination  
6 and defilement of the children of the Jews, and they  
7 watered its pure soil with their honorable blood which is  
8 sprouted into a Jihad that is continuing until the day of  
9 resurrection and provided a zeal without relenting, making  
10 the slogan of its children "It is a Jihad for victory or  
11 martyrdom.

12 "The Palestine Committee in the Countries: With  
13 the growth of blessed intifada and the spread of the  
14 spirit of Jihad amidst the children of Palestine and the  
11:09 15 nation, it became incumbent upon the remainder of the  
16 Ikhwan branches to play a roll in attributing this  
17 intifada and this Islamic action to Palestine. Therefore  
18 a resolution was issued by the Guidance Office and Shura  
19 Council of the International Movement to form 'Palestine  
20 Committees' in all the Arab, Islamic and Western nations  
21 whose job it is to make the Palestinian cause victorious  
22 and to support it with what it needs of media, money and  
23 men and all of that.

24 "The Islamic Resistance Movement: With the  
25 increase of the intifada and the advance of Islamic action



11:09 1 inside and outside Palestine, HAMAS provided through its  
2 activities in resisting the Zionist occupation a lot of  
3 sacrifices from martyrs, detainees, wounded and fugitives  
4 and deportees, and it was able to prove that this is an  
5 original and effective movement in leading the Palestinian  
6 people. This Movement, which was bread in the bosom of  
7 the mother movement, Muslim Brotherhood movement, restored  
8 hope and life to the Muslim nation and the notion that the  
9 flare of Jihad has not died out and the banner of Islamic  
10 Jihad is still raised.

11 "When work developed, the intifada started and  
12 HAMAS was formed and the general apparatus for Palestine  
13 developed and in light of the resolution of the Guidance  
14 Offense and the Shura Council the general director of the  
11:10 15 apparatus came and met with the leadership of the movement  
16 in America in 1988. After discussions and agreement, a  
17 Palestine Committee was formed under the supervision of  
18 the executive office." The committee was then tasked with  
19 supervising all the organizations which served the plan of  
20 the movement, domestically and internationally, in  
21 addition to the Palestinian cause. Among these  
22 organizations were the IAP, the Islamic Association for  
23 Palestine, the Occupied Land Fund -- the Holy Land  
24 Foundation -- and the United Association for Studies and  
25 Research" -- All part of the charter on 3-1 -- "Like

11:11 1 other directors of the Movement, committees and sections,  
2 the Director of the Palestine Committee is to submit  
3 periodic reports and adhere to the direction and guidance  
4 and leadership of the group.

5 "The Palestinian cause -- or say Islam's cause  
6 in Palestine -- needs today an effective and distinguished  
7 role for the grand Islamic movement as one fortified wall  
8 behind its leadership represented by the Shura Council and  
9 a strong support for their tool, their striking wing,  
10 HAMAS.

11 "To conclude this memo, we stress to our  
12 brothers the need to stand behind this blessed Islamic  
13 action so that God the Almighty make available or make  
14 available to us through it a field for Jihad in which we  
11:12 15 teach the enemies of God the lessons of prophets and the  
16 mujahideen and triumphing over them or martyrdom for the  
17 sake of God."

18 Do you recall the videos? I'm not going to play  
19 them anymore. I may play one at the end. But I'm not  
20 going to play them anymore. Do you recall the videos?  
21 The videos taken from their premises, taken from Mr. Fawaz  
22 Mushtaha involving these defendants? Do you remember the  
23 songs? Do you remember the skits? Do you remember the  
24 children? Do you? Were they just words to a song, words  
25 to an ode to HAMAS? Were they just words to a skit? Were

11:13 1 they just words or did they make a lot of sense? When we  
2 judge those words, those actions, we judge those songs in  
3 the context of the documents that we brought before you.  
4 Did you look in their eyes? Did you watch their bodies?  
5 Did you listen to their words? Did they appear casual or  
6 disconnected from those words? Do you think their passion  
7 and commitment to HAMAS and what it stands for is  
8 uncertain? Is it hesitant? Is it not fully committed?  
9 Is it a casual interest? Or is it something much deeper?  
10 Is it something much, much more profound?

11 They want you to question the reliability of the  
12 3 series and 4 series documents. I don't think so. Those  
13 documents were not flown here from the Netherlands. Those  
14 documents were not rehearsed. Those documents were not  
11:14 15 groomed. Those documents, Folks, were never intended to  
16 see the light of day. Did we get a break by getting them?  
17 I'll take lucky or good any day. We did. You look at  
18 those documents. You read the writing. Some of it is  
19 handwritten. Judge them against each other. Judge them  
20 against documents taken out of their premises. Judge them  
21 against documents taken from Mr. Ashqar. Judge them  
22 against the videos, these songs, these skits, these  
23 people. You tell me. Does it all make sense or is it a  
24 coincidence?

25 They want to talk about the First Amendment.

11:15 1 I'm all behind the First Amendment. You bet. It is one  
2 of the pillars of our country and one of the things that  
3 makes us great. I fully support it, and on this occasion  
4 I appreciate it because it tells us who they are. It  
5 tells us what they believe. Am I asking you to send them  
6 to prison because of what they said or what they believe  
7 by itself? No. And the Judge will instruct you, you  
8 better not. But do I want you to take what they say, what  
9 they believe and interpret the evidence and interpret  
10 their intent and knowledge and where they are sending  
11 their money? You bet.

12 Speakers, let's talk about speakers. That's  
13 something I like to do so I want to talk about it. I  
14 asked Agent Miranda on his direct examination "Why do you  
11:16 15 care about speakers?" "Well, they are a fundraiser, and  
16 who raises their funds is important." Do you agree? Who  
17 raises their money? Who raises their funds? This  
18 organization that, like HAMAS, was born in the bosom of  
19 the Muslim Brotherhood to support, defend and promote the  
20 flare of Jihad as a fundraiser, is it important? Take a  
21 look. I had a lot of fun made of me about these orange  
22 dots, but I was trying to make a point. That's who raised  
23 their funds. That's who raised their money. HAMAS,  
24 Islamic Action Front -- associates of Mousa Abu Marzook,  
25 the number one leader of HAMAS. Coincidence? Surprise?

11:17 1 Or absolutely consistent. This list was created in 1999.  
2 And in addition to HAMAS leaders, you see people from the  
3 Islamic Action Front. Islamic Action Front, not  
4 surprisingly, is the Muslim Brotherhood's party in Jordan,  
5 the organization that shared an office and phone and fax  
6 number with Mr. Goshbeh. You remember the letters sent  
7 from the HAMAS spokesman Ibrahim Ghousbeh, sharing the  
8 office with the Islamic Action Front. The Islamic Action  
9 Front Document 1-334, taken from the Holy Land Foundation,  
10 in 1993 to 1997, campaign literature of candidates for the  
11 Islamic Action Front in Jordan which listed a number of  
12 these people. In fact, there are thirteen speakers. And  
13 in it was its statements on the Palestinian Cause Level  
14 which included "Our conflict with the Jews is a  
11:18 15 religious-civilization conflict which cannot be terminated  
16 with peace agreements. It's a conflict of existence." A  
17 conflict of existence. For what does HAMAS seek? The  
18 annihilation of a civilization. The annihilation of a  
19 people and "not a conflict of words." "Jihad is the path  
20 to liberate Palestine, something which requires the  
21 jihadist mobilization of a nation, the lining up of all  
22 resources and the mobilization of all capabilities to  
23 confront the imperial Zionist attack." Those are the  
24 words of the Islamic Action Front.

25 Mr. Deeb Anees. There has been some discussion

11:19 1 about a phone call in 1999 with Mr. Deeb Anees. I don't  
2 know if you recall Mr. Deeb Anees is on this pamphlet from  
3 1993 to 1997, election for the Islamic Action Front. But  
4 1999, there is a conversation with Mr. Baker and Mr. Odeh.  
5 And they talk about Deeb Anees. Mr. Westfall brought this  
6 up and said to you that they disassociated with Mr. Deeb  
7 Anees because he supports HAMAS. "He aligned himself with  
8 HAMAS" I believe is the words he used. Folks, I don't  
9 think that's a strike. I think that's a credential to  
10 these folks. Look at the conversation. 13-176. Take a  
11 look at it. "My son" -- Shukri Abu Baker speaking. "this  
12 man collects funds flatly and publically for the benefit  
13 of SAMAH" -- HAMAS -- "and her sister. Flatly and  
14 publically. He is not shy. He stands in front of people.  
11:20 15 He talks, and we saw him in Dallas, and therefore, this  
16 man, my brother, I've got nothing to do with him." Do you  
17 think he's upset, offended by the fact that Mr. Deeb Anees  
18 supports HAMAS? Or once again are we going to see as a  
19 theme throughout this case does he threaten their  
20 existence because he flatly and publically supports SAMAH?  
21 Take a look.

22 There is a discussion about Mr. Qaradawi. I  
23 believe Mr. Westfall brought up the picture of Mr. Yousif  
24 Qaradawi. Bring up 1-197. This is Yousif Qaradawi on the  
25 right-hand side with the white item on his head, and he

11:22 1 said this was a speaker, by the way, on the list of Holy  
2 Land Foundation. He said it was because of this man here  
3 to the left which is Khalil Mishal, the now Number 1  
4 leader in HAMAS and the brother of Mufid Abdulqader.  
5 Another one of those coincidences? It's not just because  
6 of that, but who is in the center. The center of that  
7 photograph is Hasan Nasrallah. I don't expect you to  
8 remember that, but he's the leader of Hezbollah, another  
9 global terrorist movement, also one of the people with the  
10 children in the video, 6-58 or 59, that was played by  
11 Dr. Levitt or Mr. Avi. A child dressed up as the leader  
12 of Hezbollah, Hasan Nasrallah. Not only did they fly in  
13 the founder of HAMAS in the West Bank, Jamil Hammami. Mr.  
14 Zahar -- we'll talk about him -- they flew him in. Mr.  
11:23 15 McGonigle the reporter talked to him. Mohammed Syam,  
16 another founding father of HAMAS and others. But this was  
17 also testified to by Agent Miranda that there were  
18 telephone conferences. I even urge you to look at 13-170,  
19 13-1. Mr. Jonas played 13-170 for you where there is the  
20 praise of HAMAS as the leader of the Palestinian cause.  
21 31-1 is a 1997 call with Mohammed Syam, Hamed Beitawi and  
22 Hilbawi, a Muslim Brotherhood member from England. I.  
23 Syam, again one of the founders of the HAMAS movement.  
24 Hamed Beitawi also identified as HAMAS. Look at what they  
25 had to say in 1997. Praise the steadfast. Yassin, Sheikh

11:24 1 Ahmed Yassin, Yehia Yaish, the engineer, the man  
2 responsible for constructing and originating the suicide  
3 belt, the explosives. The revered hero from their  
4 community and Mousa Abu Marzook. He doesn't say HAMAS.  
5 That's true. But folks, that is the Mount Rushmore of  
6 HAMAS.

7 2-189 was a discussion of another phone call  
8 that was not captured. Do you recall Agent Miranda  
9 testified about the fact that the Islamic Association for  
10 Palestine often set up telephone conferences so we  
11 wouldn't capture them? We didn't have taps on those  
12 lines. We would only get them if someone from HLF was  
13 connected to an HLF phone. He testified about those  
14 conferences and the money raised in those conferences, and  
11:25 15 at the end of these calls you will see to the attendees  
16 that people can call in from different centers from the  
17 United States. Send your money to the Holy Land  
18 Foundation. From that point they may have a consistent  
19 donor that came from that one conference call, but he  
20 insisted the money raised from that didn't show up on  
21 1-340. That was the list we brought you, the speakers  
22 list of money raised. And Agent Miranda went through it  
23 and showed why it was unreliable. It was incomplete.  
24 They said he ran from it. He didn't run. He brought it  
25 but said it was incomplete. It made some important



11:25 1 points, but it was absolutely incomplete.

2           What did they do with their money? What did  
3 they do with their money? This organization which was  
4 born like HAMAS in the bosom of the Muslim Brotherhood who  
5 sang songs and gave speeches praising the flare of Jihad  
6 and praising HAMAS set up to raise funds and led by who  
7 would be the Number 1 leader in HAMAS, where did they send  
8 their money? First to Gaza, consistent with the origins  
9 of HAMAS and the Islamic Complex. The Islamic Complex  
10 being Sheikh Yassin's complex. Undisputed, undisputed as  
11 HAMAS. Even Dr. Brown when I prompted him and asked him  
12 what about the Islamic Complex, he said it's reputed to be  
13 HAMAS and probably well deserved he said. I think so.  
14 Between 1989 and 1994, \$725,000. Surprise? A  
11:27 15 coincidence?

16           Staying with Gaza, the Islamic Society from 1992  
17 to 2001, what we were able to address, what we were able  
18 to show with the bank records, which as Agent Burns  
19 testified we were limited in terms of what we had in  
20 records, \$125,000 is what could be shown to the Islamic  
21 Society. The Islamic Society, remember, is the location  
22 of the graduation ceremony of the children dressed up in  
23 fatigues with a rifle and one dressed like Nasrallah.  
24 That was taken at the Islamic Society ceremony.

25           21-66 is a letter related to the Al-Aqsa

11:27 1 material. The Al-Aqsa is an organization in Germany.  
2 We'll talk more about it. It was part of Avi's outside  
3 network that gave money into the Territories, into our  
4 committees, a designated entity that gave money to our  
5 folks.

6 21-66 was a letter from Sheikh Ahmed Yassin  
7 endorsing Islamic Society. Sheikh Yassin was the founder  
8 of HAMAS. There were excerpts that we also brought you of  
9 a video, 2-152, from the Islamic Society. "The young men  
10 who believe in their God and we increase their guidance,  
11 the Islamic Society in Gaza Strip submits thanks and  
12 gratitude to the Holy Land Foundation for Relief and  
13 Development which contributed to the financing of the  
14 summer camps."

11:28 15 Al Saleh, now designated as a terrorist  
16 organization. Bank records we had through 1994 showed  
17 \$234,000, but that was apparently incomplete because we  
18 recovered a thank you letter that we brought you from 2000  
19 from the School for Children of Martyrs and Orphans in  
20 1-168 which is why we introduced those money changers, the  
21 two HAMAS money changers that Mr. Avi identified. Almost  
22 a million dollars we brought you because we wanted to show  
23 you where their money is going. Could we always say? No,  
24 we couldn't. Sometimes we were relying entirely on bank  
25 records that don't show. Was it in the indictment? Ms.

11:29 1 Hollander came through and traced two or three  
2 transactions and said to projects, here is where this  
3 went. Maybe it did and maybe it didn't. We're relying on  
4 their records for that. What about all the other  
5 transactions? Was there evidence where that went? No.  
6 We're not suggesting we know where all of their money  
7 went. That's why we brought it to you. We don't. But  
8 we're not going to focus all of our efforts and our  
9 unlimited -- Even though people think of the government as  
10 unlimited, we're not. We're going to focus on the charges  
11 in the indictment. We're going to focus on the committees  
12 in the indictment and the decisions you have to make.

13 The Islamic Relief Committee from 1991 to 1996  
14 after HAMAS's designation, almost 1.5 million dollars.

11:30 15 Now, who is the Islamic Relief Committee?

16 Well, the Islamic Relief Committee was the one  
17 organization that Mr. Abington could identify as HAMAS,  
18 the one and the only one, as we'll talk about later. So I  
19 guess we're in agreement; that is HAMAS. That is the  
20 organization that Avi started on to help develop his  
21 expertise, working on the prosecution related to the  
22 Islamic Relief Committee, the prosecution of an entity  
23 that we all agree is, in fact, HAMAS. A pretty good place  
24 for training, a pretty good place to learn, to understand  
25 the network and organization we all agree is HAMAS.

11:31 1 Beginning of 1991, approximately the same time  
2 Mr. Avi identifies HAMAS assuming control over many of the  
3 Zakat Committees in our indictment -- And again, remember  
4 he said I don't want to be held to an exact date because  
5 it was a process, and you saw that in the documents where  
6 they described the need to take control over these  
7 committees. Like they said in Philadelphia regarding one  
8 of the organizations, "With God's help, in the end it will  
9 be ours." It was a process, taking over control of these  
10 committees.

11 Beginning in 1991 at the same time, at a time  
12 squarely within the El Barasse documents, squarely within  
13 the documents I just read to you from and all the  
14 festivals and all the videos and all the songs and  
11:32 15 praising HAMAS, the HLF started sending its money to the  
16 West Bank zakat committees as HAMAS started to spread in  
17 the West Bank, the same committees that are charged in the  
18 indictment today.

19 Mr. Dratel told you in his opening and remarked  
20 in his closing, adjust and comply. Adjust and comply.  
21 There was one thing that adjusted. There was less  
22 rhetoric, less open talk, less open festivals, but there  
23 was one thing that didn't change. Money. Money. What is  
24 this case about? Money. Going to the same organizations  
25 when they were closed and designated as a terrorist

11:33 1 organizations that they were sending to at the very heart  
2 of the videos and documents that you have seen. Adjust  
3 and comply. That money continued until the HLF was closed  
4 and designated as a specially designated terrorist which  
5 brings us to the argument by the defense counsel that the  
6 defendants were not individually designated. That's true.  
7 They weren't. But that really makes our point regarding  
8 these designations. It doesn't matter if the entity,  
9 group or person you are supporting isn't individually  
10 designated. If they are operating before or on behalf of  
11 HAMAS and you know it, that's good enough. That gets it.

12 The HLF was designated, but these defendants  
13 weren't. Does the HLF have a heart? Does the HLF have a  
14 mind? Does the HLF have the ability to raise money? Does  
11:34 15 the HLF have the ability to send money? Does the HLF have  
16 the ability to make decisions? No. It operates through  
17 its people. It operates through its decision makers. It  
18 operates through its signatories. The HLF was designated,  
19 but not the defendants.

20 There was some talk about the Dallas Cowboys,  
21 and I am going to walk around that. First of all, two  
22 out-of-towners trying to talk out-of-town speak, and they  
23 should not have designated the Cowboys. The Washington  
24 Red Skins should have been designated, not the Dallas  
25 Cowboys. But I believe the point was made. If you

11:35 1 represent, support, act for or on behalf of that terrorist  
2 organization and you know it, that is a violation of the  
3 law.

4 Let's talk about these committees. I want to  
5 talk about these committees. But first, let's talk about  
6 Mr. Avi, and we'll call him Avi. I guess we can't do the  
7 Mr. Avi thing. Let's talk about Avi and Dr. Levitt. The  
8 old saying "wrote the book on it," Dr. Levitt wrote a book  
9 on HAMAS. Dr. Levitt, the Ph.D. Dr. Levitt, the former  
10 counter-terrorism analyst wrote a book, not about  
11 Palestinian Society, not about some peripheral thing.  
12 About HAMAS. "Politics, Charity and Terrorism in Support  
13 of Jihad," that was the book that he wrote. Dr. Levitt  
14 brought us the HAMAS model. You remember Mr. Jonas put it  
11:36 15 on the screen, and it showed the social at the base, the  
16 political in the middle. The most important part, the  
17 widest, the social structure, everything else is built on  
18 it. The top is the political wing. The direction and  
19 control. He described the political and social and  
20 military wing and how they are responsible for their given  
21 areas and how they cooperate and support one another. And  
22 he told you that HAMAS and its social wing act through  
23 zakat committees. You judge Dr. Levitt. You judge his  
24 credibility.

25 Avi. Been a lot of talk about Avi. I'm sure

11:37 1 his ears are burning. Let's talk about Avi. Let's talk  
2 about why you should listen to Avi. At the end of the  
3 day, you make your decision about Avi, and I'm okay with  
4 that. Avi works for whom? Avi works for the Israeli  
5 Security Agency, the Shinbet. What is their job? What is  
6 their function? What is their responsibility? To protect  
7 the lives of Israeli citizens. To protect the State of  
8 Israel against what is in no dispute the fierce enemy of  
9 the State of Israel, the organization that walks in its  
10 pizza parlors, walks in its schools, walks in its cafes  
11 and blows themselves up. Do you think it's important for  
12 the Israeli Security Agency to be accurate? Do they have  
13 a reason to know what's at stake? What's at stake in the  
14 Israeli Security Agency? I heard a lot of what I would  
11:38 15 describe flatly as absolutely cheap and unfair remarks  
16 about Avi -- that he doesn't care about the needs of  
17 Palestine, if it were up to him there would be no  
18 humanitarian support of Palestine. The children don't  
19 need education. Folks, that's just wrong. It's wrong to  
20 say it. It's wrong to believe it. HAMAS is the one who  
21 doesn't want peace. HAMAS is the one blowing people up.  
22 HAMAS is the one that is taking the children from cradle  
23 to grave to support the flare of Jihad. Cheap and unfair.  
24 The person who studies on the ground. They want  
25 to talk about he's disconnected. Folks, I'll put it to

11:39 1 you like this. The terrorist threat in the State of  
2 Israel is not an ocean away. The terrorist threat in  
3 Israel is feet and yards away. It's immediate. It's  
4 every day. That's where Avi lives. He not only lives  
5 there, he's responsible for knowing who HAMAS is, not  
6 Dr. Brown, not Mr. Abington. He brought you a criteria.  
7 Is he saying every zakat committee in the West Bank and  
8 Gaza? Absolutely not. There are hundreds and hundreds he  
9 said. He brought you a criteria. He explained to you  
10 what he looks at, how he analyses the question of who's  
11 HAMAS because, folks, it's not academic to him. It's real  
12 to him. He looks at Arabic media sources. No, he's not  
13 proficient at reading and writing Arabic. That's why the  
14 Israeli Security Agency has people every day performing  
11:40 15 that function. He looks at Arabic media, Israeli media,  
16 police statements and interrogation of HAMAS supporters.  
17 He looks at all sources in identifying people. He wasn't  
18 relying on classified intelligence for the purpose of his  
19 testimony. He looks at convictions. Convictions of  
20 people for being HAMAS. He's the only witness to talk  
21 about the network, the network of outside organizations --  
22 the Al-Aqsa in Germany, InterPal in Great Britain, CPA in  
23 France, the Holy Land Foundation in America, all not  
24 surprisingly designated. That was part of his criteria.  
25 Who's sending money to these organizations? Who?



11:41 1           Why is that important? I tried to talk to  
2       Dr. Brown about that. Did you consider that? No, the  
3       documents didn't say anything about zakat committees. The  
4       question though is who is sending them money. Is it  
5       relevant to consider the fact that if you have an  
6       organization again that is born and bred in the bosom of  
7       the Muslim Brotherhood and by its own documents is set up  
8       to establish support for the flare of Jihad and its action  
9       in Palestine through HAMAS, is it a relevant consideration  
10      to look where they send their money? I think it is. He  
11      gave you details regarding the specific names ad nauseum.  
12      The specific names, the specific projects, the specific  
13      dates, the specific people, at specific times. He talked  
14      about the inner relationship between these committees to  
11:42 15      one another in addition to the relationships in the  
16      outside network. His expertise in part came from his  
17      extensive work on the Islamic Relief Committee which  
18      everyone agrees is HAMAS. He gave dates the organizations  
19      were founded, their original Muslim Brotherhood  
20      affiliation, because remember the testimony. After 1948  
21      the Muslim Brotherhood established a presence in  
22      Palestine. These organizations were the Muslim  
23      Brotherhood before HAMAS was created. But remember HAMAS  
24      grew from the Muslim Brotherhood. He described the  
25      gradual control over these committees which is consistent

11:42 1 with the documents, many of which we will talk about in  
2 Philadelphia, for example, and others. He discussed the  
3 delicate balance between the Palestinian Authority and  
4 HAMAS, this political dance, if you will, what he called  
5 the inside balance. Folks, there is nothing simple about  
6 the relationship between HAMAS and the Palestinian  
7 Authority. There is nothing simple about it. It's a very  
8 delicate balance. Are they bitter foes? Yes, they are.  
9 Why are they bitter foes? Because they are competing for  
10 the support of the people. Remember I asked Dr. Brown if  
11 there was something to the enemy of my enemy is my friend.  
12 They do have something in common; their dislike for  
13 Israel. He talked about that balance and how like Jenin  
14 and Ramallah were shut down as committees but allowed to  
11:43 15 reopen. He would put pressure on Arafat, the leader of  
16 the PA, so that he would act and let up. On the gas, off  
17 the gas. This constant balance, this constant dance, to  
18 show I'm doing something, but I'm not losing the support  
19 of the people, my own people. Very difficult balance.

20           Avi brought you numerous posters and pictures  
21 and key chains and calendars and other internal HAMAS  
22 related documents taken from the inside committees. Some  
23 of these documents they said -- I believe Ms. Moreno  
24 talked about one of the witnesses said they were  
25 inaccurate or incomplete translations. Where is the

11:44 1 evidence of that? Where is the evidence of that? He  
2 brought you the pictures, the posters, the key chains, the  
3 postcards taken out of these nonpolitical committees.  
4 These committees that depend on their neutrality. Avi had  
5 access to all the materials which is precisely what  
6 Dr. Brown said on his cross examination. I asked him --  
7 and you may recall -- were you aware that Avi had just  
8 that, access to all the material in deciding what was  
9 important, what to bring to you which is exactly what he  
10 had? It's true he testified under an assumed name, Avi.  
11 That's true. He sure did. And I'll talk about one of the  
12 videos where HAMAS -- a HAMAS fighter is talking about  
13 capturing an ISA worker and let you see that. The defense  
14 had everything. The defense was provided with everything  
11:45 15 that Avi had ever written on this subject which was  
16 extensive. They were provided all of it. In fact, they  
17 provided it to Dr. Brown. They weren't hindered by that,  
18 and there was a real need for that. Remember, Folks, this  
19 is very real, very real.

20 We'll talk a little more about Dr. Brown and Mr.  
21 Abington later because I do want to talk about them.

22 Your Honor, now might be a time to recess. I  
23 can go ahead if you like.

24 THE COURT: No, I asked you to tell me a good  
25 time. So we'll go ahead and take our midday recess at

11:46 1 this point, Ladies and Gentlemen. Please continue to  
2 observe the instructions I have given you as jurors while  
3 we're apart for lunch. We'll be in recess for 1:15.

4 (Recess)

5 THE COURT: Go ahead.

6 MR. GARRETT: Good afternoon. When we left off  
7 this morning we were getting ready to start talking about  
8 some of these committees, but I want to back up for a  
9 second. We talked the Islamic Relief Committee, and that  
10 was a committee that we all agreed -- and even Mr.  
11 Abington agreed -- that it was a HAMAS entity, and that  
12 was the organization that Avi worked on in the prosecution  
13 that developed in large part his work. I want to bring to  
14 your attention a document out of the 3 series documents, a  
13:18 15 document from the Islamic Relief Committee. I wanted to  
16 read a couple of passages from that document. You may  
17 recall it, but it was way back in Agent Burns's testimony.  
18 It states on Page 12 from the Islamic Relief Committee.  
19 This document is 3-65, Page 12. You do not know how happy  
20 people become when we watch those mujahideen and how proud  
21 they feel when they parade their uniforms and weapons and  
22 the extent of their honor when they carry out their  
23 Jihadist operations against the Jews and their tentacles.  
24 It is a feeling that no taste or enjoy its flavor except  
25 the one who lives it. Jihad in Palestine is different

13:19 1 from any Jihad; the meaning of killing a Jew for the  
2 liberation of Palestine cannot be compared to any other  
3 Jihad on earth. This is the meaning that I came out with  
4 from there.

5 "Therefore, my brothers. Oh, God, Oh, God, Oh,  
6 God, about your brothers in our beloved strip. They live  
7 now in permanent alert and cry out to you with their  
8 loudest voice, "Be with us and live with us. Do not rest  
9 and do not twinkle until you care about us and provide us  
10 with what helps of funds and weapons. Weapons, weapons,  
11 our brothers."

12 It goes on to Page 14. "To my humble knowledge,  
13 the transfer channels are open now without problems.  
14 Examining the delivery channels, placing each channel in  
13:20 15 its main purpose without using its funds for other  
16 channel's means.

17 "The detainees and the needs of their families,  
18 their funds are to be in a specific channel and  
19 distributed throughout the strip.

20 "The martyrs."

21 It goes on. Asking for humanitarian aid with  
22 one hand and weapons with the other. That's the Islamic  
23 Relief Committee. That's the organization that even Mr.  
24 Avi -- not the only one -- who acknowledged was HAMAS.  
25 The one the defendants gave over half a million dollars to

13:21 1 before it was shut down in 1996.

2 The Islamic Charitable Society of Hebron. I  
3 want you to think in response to something Ms. Hollander  
4 said in the need for neutrality of these committees. Do  
5 you think they are checking their politics at the door?  
6 The Islamic Charitable Society of Hebron, identified as  
7 one of the largest charities in the West Bank, the HAMAS  
8 members who were part of that committee in positions, as  
9 Avi told you, which are the key positions within the  
10 committee, the decision-making positions within the  
11 committee. Mahmoud Rashid, Abed Khalek Shazil Natshe,  
12 Abdallah Azzam, Nabil Natshe, Moustafa Shawar, Kamal Al  
13 Tamimi. I encourage you -- 2-9 was a document I went  
14 through with Ms. Burns. It was taken out of Infocom, run  
13:22 15 by Ghassan Elashi. And you will see a lot of their names.  
16 In the interview that Mr. Avi talked about, Khalil Mishal,  
17 the Number 1 guy in HAMAS -- Also I asked Dr. Brown about  
18 it, whether he had read that article -- that included  
19 those individuals in addition to Abdel Khalid Natsheh, the  
20 chairman of the committee. Unrefuted testimony the head  
21 of HAMAS Hebron is Abdel Khalid Natsheh. Testimony that  
22 Abdel Natsheh and Hamed Beitawi were identified by Khalil  
23 Mishal. Unrefuted testimony that Natsheh was convicted  
24 and sentenced to ten years in jail for his activities.

25 Avi talked about the other members he identified

13:22 1 on the committee. One of the branches of the Islamic  
2 Charitable Society is the Young Men's Muslim Association.  
3 In fact, that was the ceremony where you saw the  
4 rocket-propelled grenades on their shoulder. That was the  
5 Muslim Association which is part of the Hebron Islamic  
6 Charity. That was the tape where the lady identifies Mr.  
7 Natsheh as the head of the HAMAS in Hebron. That doesn't  
8 seem to comport either with this need for neutrality.  
9 Internal HAMAS documents talking about the re-election of  
10 Khalil Mishal and transferring money to the charitable  
11 organizations, and ending with instructions to call upon  
12 the public fund in Switzerland with a code word was found  
13 in the office of the Islamic Charitable Society in Hebron,  
14 of Abdel Natsheh. That was the one in fine print.

13:23 15 Numerous other documents and posters of famous HAMAS  
16 martyrs were found in the Islamic Charitable Society of  
17 Hebron, and as Avi told you, they would hold celebratory  
18 rallies at that institution.

19 We'll talk about it a little more, but  
20 Government's Exhibit 3-7, the document that lists the  
21 committees, from the home of El Barasse that says to Mr.  
22 Shukri that lists the committees, it says "All of it is  
23 ours."

24 Jenin Zakat Committee. Evidence the Jenin Zakat  
25 Committee has at least eight members who are HAMAS. Adeeb

13:24 1 Aboushi, Zaid Zakarneh, Walid Jarrar, Naser Jarar, Jamal  
2 Abu Hija, Mohammed Fouad Abu Zeid -- I don't want to ask  
3 you to remember all of these names, but they are out  
4 there. Two of them, Jamal Hija and Naser Jarar are  
5 identified as HAMAS. Five of them were also members of  
6 the HAMAS military. Al Hija is in jail for planning a  
7 suicide attack. Avi told you who controlled these  
8 committees is critical. As he was quoted, "You control  
9 the committee; you control the money." Video tape found  
10 in Jenin zakat had children acting out bombings.  
11 Postcards of Sheikh Yassin and other HAMAS leaders were in  
12 boxes taken from there. Mr. Dratel talked about in  
13 reference to Mr. Jonas's opening where he said they were  
14 to hand those out. They had boxes of postcards. You  
13:25 15 decide what they were doing with them. Closed by the  
16 Palestinian Authority in March of 1996. That's part of  
17 what I talked to you earlier about, that delicate balance  
18 between the two. Government's Exhibit 3-7 which we will  
19 talk about more identified the Jenin Zakat Committee as  
20 "guaranteed."

21 Now the Nablus Zakat Committee identified four  
22 controlling members including Hamed Beitawi and Abdel  
23 Rahim Hanbali, Adli Yaish and Ziad Merish. Hamed Beitawi  
24 was identified also by Khalil Mishal as a HAMAS founder.  
25 He was in the 318 video tape where they are sitting around



13:26 1 the camp fire and the flash of the HAMAS symbol on the  
2 screen. The key chains of Sheikh Yassin and Yaish the  
3 bombmaker. The student time table with the scenes of the  
4 suicide bomber which I believe Ms. Moreno referenced and  
5 Ms. Hollander I believe under their examination I believe  
6 of Mr. Abington which is "A Day in the Life of the  
7 Palestinians" which includes the bus bombings or is that  
8 part of what Ms. Moreno described the fantasy of violence?  
9 Video of HAMAS fighter seized from the Quran Memorization  
10 Class in Nablus. Al Tadamoun was HAMAS as well. You  
11 will see in 3-7 -- Mahmud Rumahi, who was on the British  
12 Broadcasting Channel, talked about by Avi. Chairman. And  
13 in addition to Mr. Mahmud Rumahi and Ahmed Zeid, some of  
14 these people including Omar Hamdam and Ahmed Zeid were  
13:27 15 identified by Mr. Avi as convicted for their HAMAS  
16 activities. July 30th, 2006 is the video that Mr. Avi  
17 talked about of the British Broadcasting where Mahmud  
18 Rumahi identified himself as HAMAS and thanked the social  
19 network or structure for their political rise to power in  
20 2006.

21 Government's Exhibit 3-7, "All of it is ours."  
22 Tulkarem Zakat Committee, at least five members were  
23 identified with the leader of HAMAS. Hosni Khawaja, Bilal  
24 Safira, Dr. Bashar Al Karmi, Amar Ayoub, Amar Badawi were  
25 identified. One of the leaders, Abdul Safira, was

13:28 1 identified by Khalil Mishal, the number one leader in  
2 HAMAS, as a HAMAS founder. Two of the leaders, Amar Ayoub  
3 and Amar Badawi, were arrested by the Palestinian  
4 Authorities for their activities. There was a broadcast,  
5 if you recall, on Radio Iran, Radio Iran in Tehran, Iran.

6 Many HAMAS posters found in the committee,  
7 including the claim of responsibility for the Park Hotel  
8 bombing, the vicious bombing on the Passover that led to  
9 the incursion and Operation Defensive Shield which yielded  
10 these documents and a poster of Mousa Abu Marzook.

11 Bethlehem Orphan Society. Ghassan Harnas and  
12 Ahmad Sharouf. Ghassan Harnas was also identified by  
13 Khalil Mishal as a HAMAS founder. He was with, you  
14 recall, the Bethlehem zakat, and around 1997 he went over  
13:29 15 to the Bethlehem Orphans Care Society, and with him went  
16 the HLF money to the Bethlehem Orphans Care Society.  
17 HAMAS web site identified Harnas and Sharouf as senior  
18 HAMAS leaders. 3-7, Bethlehem Zakat. "We have seven out  
19 of eleven including Ghassan Harnas," the individual  
20 identified by Khalil Mishal.

21 Islamic Science and Culture, four HAMAS  
22 activists -- Jamil Hammimi, Nashashibi, Hasan Elkik,  
23 Ibrahim Abu Salem. Ibrahim Salim also identified by  
24 Khalil Mishal, also you will see in one of defendants'  
25 documents I will talk about in a minute. Jamil Hammimi

13:30 1 was identified by Khalil Mishal as well. Including the  
2 fax of Mr. El-Mezain talking about Jamil Hammimi. There  
3 has been some discussion about Hammimi because the United  
4 States did -- she is right -- bring Hammimi to the United  
5 States in 1998. Why? I don't know. I don't know the  
6 facts and circumstances. I know, as testified by our  
7 witnesses, that there was a split in 1996 with HAMAS. And  
8 they told you why, because it was engaging in more  
9 moderate talks. That's a no no in the world of HAMAS.  
10 Mr. Avi testified he acknowledged there was a split in the  
11 family, but like all families they reconciled, came back  
12 together. Ms. Hollander said evidently we didn't get the  
13 message to Mr. Avi. That's not how we do it. They  
14 testify how they testify.

13:31 15 Qalqilla Zakat Committee. Undisputed  
16 identification of three HAMAS leaders in Qalqilla --  
17 Ibrahim Dawoud, Ibrahim Albaz, Riyadh Walwil. Dawoud also  
18 known as Avi told you -- Remember Mr. Avi told you Abu  
19 names and aliases. Bilal Hanoun, chairman. Ibrahim Albaz  
20 and Riyadh Walwil were the signatories on that committee.  
21 3-7, "All of it is ours. It is guaranteed."

22 No one challenged Avi's identification with  
23 these people as HAMAS. Avi knows who's HAMAS. He told  
24 you his sources. He told you how he goes about  
25 identifying these people, many of whom, as he told you,

13:32 1 right out of the mouth of Khalil Mishal, and as he said,  
2 "Who am I to question Khalil Mishal?"

3 Mr. Dratel told you being, rather dismissive to  
4 these names and people, that there are only a couple of  
5 people they can talk about on these committees. Not true.  
6 Let's look at Philadelphia. I want to talk a little bit  
7 about Philadelphia, but not a lot. I think there has been  
8 quite a bit of discussion about Philadelphia, but you can  
9 certainly read the 16 series, the Philadelphia conference,  
10 and what the attendees were discussing about HAMAS and  
11 calling it SAMAH and their movement and the support and  
12 their efforts to derail the peace conference. This is  
13 from a charity. The discussions of the war being  
14 deception. 16-59 is where they discuss some of these  
13:33 15 committees and organizations. And at 16-59, they give a  
16 background about the evolution of these committees, and  
17 they say "The core of the matter is that there was a  
18 noticeable absence for Islamic organizations in the West  
19 Bank and Gaza sector whether before the intifada or until  
20 now. We can say during the intifada the organizational  
21 presence in the Occupied Territories was not at the needed  
22 level. I tried to classify the types of organizations  
23 which exist in the Occupied Territories, and I believe I  
24 have classified them in ten categories. We have the  
25 educational organizations such as kindergartens and

13:33 1 schools. And the social and charitable organizations such  
2 as zakat committees, relief, the ones caring for orphans,  
3 prisoners and others. The intellectual organizations,  
4 research centers, health institutions, the majority of  
5 which are affiliated with zakat committees. Five, the  
6 public syndicates. Six, the technical school institutions  
7 related to machines, factories and others. Sports  
8 institutions and clubs and meeting organizations and  
9 offices and newspapers. Number 9 is the education such as  
10 the Quran schools, the sayings schools and the women's  
11 organizations. Organizations, generally speaking, in the  
12 Gaza sector are limited. If we speak in general terms  
13 about our organizations" -- This is something very  
14 important, folks, very important, this word "ours." I  
13:34 15 want you to judge this word "ours," and I want you to  
16 define it in the context of everything you know about  
17 these people. Behind it, what do they mean when they say  
18 "ours?" What do you think of now?

19 "The main organization which is known to belong  
20 to us is the Islamic University in the Gaza sector, and we  
21 will speak about it later. About the solutions we will  
22 mention because it is really a wound in the heart. Number  
23 2, the Islamic Complex." The Islamic Complex -- this is  
24 1993 -- Sheikh Yassin's organization, even the defendants'  
25 witnesses themselves acknowledge is HAMAS. That is us.

13:35 1 That is ours.

2 It goes on to talk about Al Saleh Society which  
3 we had a discussion about -- Sheikh Yassin -- which is now  
4 a designated organization. "In the West Bank and the  
5 north region which includes Nablus, Jenin, Qalqilla and  
6 Biqa'a Valley, there was relatively old activity which was  
7 Nablus Zakat Committee in Nablus which was founded in  
8 1976. It is very advanced in comparison with other  
9 committees. For instance, they have over 1,000 orphans,  
10 2,200 families which are sponsored monthly. They have  
11 investment activities and other activities. But when we  
12 speak about it as a zakat committee, we tie it to us."

13 "In reality," he goes on to say "we as Islamists  
14 have a weak presence there. That is if we speak about  
13:36 15 reality."

16 "We then come to the main activity which is the  
17 zakat committees in Jenin for instance and elsewhere. In  
18 Jenin, the zakat committee there has built a hospital  
19 which is really ours for the Islamist working either in  
20 management or in the teams working in it." Al Raza  
21 Hospital, that's the 2-22 document Mr. Jonas showed you  
22 where it talks about Islamists, Islamists, brother,  
23 brother, semi-brother, semi-brother. What are they really  
24 talking about? "It's really ours." For the Islamists  
25 either in management or the teams working in it."

13:37 1 "This is one of the problems which are not  
2 solved, the affiliation of the organization with exposed  
3 people. So when a problem happens with the man, a problem  
4 happens with the organization. I mean the Islamist  
5 Science and Culture Society used to have a research center  
6 which was the nucleus for a huge research center until the  
7 person in charge, Sheikh Jamil Hammimi, who founded HAMAS  
8 in the West Bank was arrested, and this became an obstacle  
9 and a hindrance for the development of the project."

10 The Ramallah region really has some noticeable  
11 activity from our organizations and in particular the  
12 activity of the zakat committees. We can say the Ramallah  
13 Zakat Committee is ours, including its management and  
14 officers. Because of their efforts in the past the  
13:37 15 brothers were able to establish some activities,  
16 particularly the medical aspect. Thanks be to God, the  
17 medical aspect has started to advance and move forward in  
18 large steps, thanks be to God. But unfortunately, when  
19 institutional and organizational work interfere" -- and  
20 this is an important point -- "chaos begins. I mean the  
21 brother who was and I believe he was the -- one of the  
22 most capable people in the syndicate, administrative and  
23 medical activism. He was a doctor." Mahmud Rumahi, who  
24 was testified was arrested. "He started this center and  
25 started to bring experienced people to it. It was a

13:38 1 hospital. This brother was also engaged in organizational  
2 activity was arrested and still under investigation.  
3 Thus, this interference brought about some crisis for some  
4 of the organizations."

5 "In Hebron -- Hebron as a city is a place where  
6 we consider we have a good presence and weight for the  
7 Islamic organizations such of the Islamic Charitable  
8 Society which was founded in 1962." Islamic Charitable  
9 Society of Hebron. The Patients Friend Society, the Al  
10 Alhi Hospital. "God willing, this organization" -- It  
11 goes on to start talking about the hospital. "God  
12 willing, this organization will be ours at the end,  
13 particularly the hospital."

14 The Young Men's Muslim Association which again I  
13:39 15 told you is part of the Islamic Charitable Society of  
16 Hebron. "Its chairman is deported. Its chairman is  
17 deported."

18 Mr. Baker responds, "He returned."

19 Muin Shabib comes back to state, "He now  
20 returned. He returned with the last group of people who  
21 returned. The negative aspects of the past phase, our  
22 brothers, are number one being run by exposed persons.  
23 The Complex, Yassin, the Islamic Society, Al Quqa."  
24 That's Khalid Al Quqa, HAMAS deportee. 3-22 where it says  
25 right on its face, deported leader of HAMAS. Yassin and



13:40 1 the Complex.

2           These are the things I want you to consider when  
3 you try to define what is ours. Islamists. We saw talk  
4 about they are Islamists. As I recall at 16-85, Page 7,  
5 Mr. Abu Baker talks about Islamists. "We know what we  
6 mean. Islamists are the alternative."

7           You recall that Omar Ahmed, one of the members  
8 of the Palestine Committee, stated that "There is no one  
9 left to protect the principles and believe in the  
10 principles other than SAMAH." 16-71, Page 15.

11           Consider all this in the context of everything  
12 else you know about these defendants and their  
13 organization and define what they mean by Islamists, what  
14 they mean by ours.

13:41 15           I show you 3-7. 3-7 I think is a very important  
16 document. 3-7 was a document taken from the home of  
17 Ismail El Barasse in 2004, same location where the other  
18 founding documents of the Holy Land Foundation were  
19 recovered, those documents that we have been talking about  
20 that I have shown you. Would you please bring up, Mr.  
21 Lewis, 3-7, Page 4.

22           The beginning page of 3-7. You recall you have  
23 seen this a number of times in this trial. It's an  
24 important document. I want you to pay attention to it,  
25 and I want you to look at it, and I want you to interpret

13:42 1 it and think about it in light of all of these other  
2 documents that I have talked to you about. "Ramallah  
3 Zakat Committee, all of it is ours."

4 Mr. Dratel suggested that there could be no  
5 credit in this because it says Qalqilla Zakat Committee  
6 not licensed, and that's not right. I don't know if it  
7 was or wasn't in 1991. I don't think that discredits this  
8 document.

9 "Bethlehem Zakat Committee, we have seven out of  
10 eleven including Brother Ghassan Harmas." You recall him  
11 from the previous testimony.

12 "Jenin Zakat Committee, guaranteed by virtue of  
13 Mohammed Fouad Abu Zeid's position."

14 We can talk about Nablus Zakat Committee. They  
13:43 15 have nobody in it. But they have a relationship with Hajj  
16 Yaish. We talked about that person as well, and Avi did  
17 in his testimony.

18 Tulkarem Zakat describes that they have "one at  
19 this time. The rest are merchants without inclination."  
20 Bilal Safira was identified as HAMAS by Avi listed on this  
21 document.

22 "Qalqilla Zakat, all of it is ours, and it is  
23 guaranteed."

24 Page 5, next page. Number 13, not a committee  
25 charged in this indictment, but the name Ibrahim Salim,

13:44 1 I'll talk about. Islamic Charitable Society of Hebron.  
2 It's the one I believe had eight members that we talked  
3 about in the very beginning. All of it is ours. It had  
4 Adnan Mishack, identified by Khalil Mishal. Abdel Natsheh  
5 the head of HAMAS in Hebron. Hashem Al Natsheh. "Our  
6 people."

7 Islamic Science and Culture, Number 4, "another  
8 one of ours. We have three of our people in it." Avi  
9 identified three -- Hammimi, Hasan Elkik and Abu Salim.

10 Last, Number 17, you will see Al Tadamoun which  
11 is part of the Islamic Charitable Society in Hebron. "Our  
12 presence is weak." And it has Sheikh Hamed Al Beitawi.  
13 You recall I asked Dr. Brown about this document. In  
14 fact, I asked -- because he was asked under direct  
13:45 15 examination by Mr. Dratel -- asked about a couple of  
16 documents. 21 and 22, the Islamists and semi-brother and  
17 brother, which he said he didn't know what it meant. That  
18 could mean any number of things. People refer to  
19 themselves as Islamists. Didn't know. This document,  
20 didn't know where it came from, didn't know who wrote it  
21 or what they mean by ours. Wasn't any help to him at all.  
22 You recall under cross examination where I talked to him  
23 about this document. Talked to him about Philadelphia.  
24 Talked to him about the other El Barasse documents and the  
25 documents that were found that showed the purpose and

13:46 1 intent and design of this organization behind them. And  
2 he wasn't interested in that. But as he talked about it,  
3 the context is everything in interpreting what they mean.  
4 But he chose not to look at that. I asked him to recall  
5 if he had read the interview of Khalil Mishal where the  
6 number one man in HAMAS himself identified -- not HAMAS  
7 supporters, HAMAS leaders, HAMAS founders. He said, yes,  
8 he had read that. I asked him to look at the names on  
9 this 3-7 list, and he looked at the names. I asked him if  
10 he recognized the names. He said, "No, only because you  
11 just mentioned them." And you recall that I asked him  
12 about the interview that he said he read where Khalil  
13 Mishal talked about Ghassan Harماس, Abu Zeid, Salim, Adnan  
14 Mishack, Abdel Khalid Natsheh and chairman of the board  
13:46 15 Hamed Beitawi. But he didn't recognize the names.

16 Defendants 1019, this is a document that Ms.  
17 Hollander brought to your attention under cross  
18 examination of Agent Burns. I won't put it up on the  
19 screen. I'll just talk briefly about it. They were  
20 talking about a trip that Mr. Shukri Abu Baker had taken  
21 into the Territories, and this was his report back. It  
22 says "Also met with Sheikh Abu Salim, Chairman of the Bier  
23 Naballah Charitable Committee." You recall that name?  
24 Identified by Khalil Mishal, founder of HAMAS. He stated  
25 that he also visited the Islamic Philanthropic Association

13:48 1 in Hebron and met with its officials. Mr. Abdel Khalid  
2 Natsheh, the leader of HAMAS in Hebron, also identified by  
3 Khalil Mishal. And Kamal Tamimi identified as HAMAS and  
4 someone who would become the HLF representative in  
5 Ramallah. You recall also Mr. Natsheh was the gentlemen  
6 seated in that ceremony -- in that ceremony with the  
7 children carrying the rocket propels on their shoulders.

8 He talks about visiting Gaza. In Gaza, he  
9 visited an area accompanied by Dr. Suleiman, that's  
10 Suleiman Ighbariya from the Islamic Relief Committee, the  
11 organization we all agree is HAMAS. And met over there in  
12 this 1991 report with Mr. Abu Khalid. "We discussed with  
13 Mr. Abu Khalid the issue of establishing an  
14 association for research at the university." Who's is Mr.  
13:49 15 Abu Khalid? Mahmoud Zahar. Who is Mahmoud Zahar? One of  
16 HAMAS's founders and leaders and interestingly the  
17 individual who met with Steve McGonigle, the Dallas  
18 Morning News reporter who went to Gaza who said that he  
19 met the Defendant Shukri Abu Baker in Los Angeles in 1990  
20 and that they talked about a medical issue of Shukri's  
21 daughter, but that's all he knew. What he failed to  
22 mention is that the defendant paid for his trip to Los  
23 Angeles, that he was a listed fundraiser for the  
24 organization, and in 1991 he came over and I met with him.  
25 Those are the things I assume may have slipped his mind.

13:50 1 We'll talk a little bit more about that visit.

2 Talks about Fawaz Hamad in Jenin, another  
3 identified HAMAS member. He talked about in Nablus,  
4 Nablus Charity Committee, led my Dr. Hanbali, also  
5 identified as HAMAS. He talked about the fund is  
6 represented in the central region by Aql, a HAMAS  
7 deportee. This was a document the defendants brought to  
8 your attention.

9 They talked about 4-21, the early document that  
10 Agent Burns dated around 1998, the very beginning of  
11 HAMAS. Talks about reorganization on the inside with the  
12 social work. Talks about under the Muslim Brotherhood.  
13 And HAMAS is the line right below it, the resistance arm  
14 the striking arm. It details the very beginning and  
13:51 15 origins of the organization that would ultimately morph  
16 into the organization described to you by Dr. Levitt, the  
17 organization born out of the Muslim Brotherhood which is  
18 why they share the same document, the same reason they  
19 share the same document and same purpose as the document  
20 in the 3 series describing the origin and birth and the  
21 purpose of these defendants.

22 What did the defendant bring you to challenge  
23 the Palestine Committee and its purpose in the United  
24 States? What did they bring you to challenge the  
25 specifics and the substance of those documents? Did they

13:51 1 ever take that on? No. You recall Ms. Hollander's  
2 opening when she said that the Defendant Shukri Abu Baker  
3 started this organization for his daughter. We didn't  
4 hear anymore about that because he didn't. The  
5 organization was started, directed and controlled and  
6 overseen by the Number 1 leader in the HAMAS terrorist  
7 organization. They only make minimal reference to these  
8 documents. Unbelievable. What, who for, to whom? Again,  
9 look at these documents, look at them with the 4 series.  
10 Look at them against the HLF documents and Infocom  
11 documents and the videos and all the material that we have  
12 brought you. And answer me this: Does it fit? Does it  
13 fit? And where do you think that organization would send  
14 its money? Items that were never intended to see the  
13:53 15 light of day. They didn't attack these documents. They  
16 didn't attack the documents establishing the origins and  
17 the foundation, the purpose, the intent and the design of  
18 Holy Land Foundation. They brought you Edward Abington  
19 and Dr. Nathan Brown.

20 Let's talk about Mr. Abington first. First  
21 thing I want to do is apologize because I will tell you  
22 what I was struck with as I sat there and listened to Mr.  
23 Abington talk. I was a bit embarrassed that that is the  
24 best the United States had to send to Jerusalem, to the  
25 heart of this battle, to the heart of this conflict.

13:53 1 Edward Abington. Top secret and code word clearance for  
2 thirty years. And I don't mean to be rude, but you'd  
3 think he would know more. The heart of the conflict. But  
4 he couldn't recognize the HAMAS symbol. You recall when  
5 it came up on the screen he sat there and stared at the  
6 screen and finally had to read the script, and he said in  
7 his testimony "I think it's the HAMAS symbol, but I'm not  
8 sure."

9 But he talked about other wall hangings and  
10 posters and things he was seeing and told you what all of  
11 that meant and who it was. And he couldn't recognize the  
12 HAMAS symbol? Never heard of HAMAS referred to as "The  
13 Movement." Never heard that. Couldn't name one leader in  
14 the West Bank of HAMAS. The terrorist organization that  
13:55 15 is the single largest threat to the State of Israel, and  
16 he couldn't name you one. Although acknowledging that  
17 HAMAS has a social wing and talked about the social wing  
18 and talked about that HAMAS uses the social wing to gather  
19 the support and the support of people. He acknowledged  
20 that. He talked about that he had conversations with  
21 people who said that they supported HAMAS. And we talked  
22 about because of the support that they give -- and he  
23 acknowledged -- all the witnesses acknowledged HAMAS's  
24 social wing. But it just wasn't the committees we brought  
25 to you; we just got that wrong. Did we get all the other



13:55 1 things right about who they are? What they represent?  
2 What they feel? What they think? What they feel? What  
3 they taste? But we got that wrong? Acknowledging HAMAS's  
4 social wing and the Palestinian support for that wing, he  
5 couldn't name you one HAMAS organization, except the  
6 Islamic Relief Committee, the organization which Avi  
7 helped to prosecute and the HLF gave nearly a million and  
8 a half dollars to until it was closed. That was the only  
9 organization known to Mr. Abington. Our authority, our  
10 representative in Jerusalem, our representative in the  
11 heart of this conflict who came here before you, flown  
12 from the Netherlands. He said he had no dog in this  
13 fight. Free of charge he flew from the Netherlands to  
14 talk to you. You judge him. You judge him. He  
13:56 15 criticized Israeli intelligence but admitted he doesn't  
16 work with Israeli agencies. He deals with Palestinians.  
17 That was his job, to deal with Palestinians, which makes  
18 sense because he ultimately would leave and become a paid  
19 lobbyist for the Palestinian Authority. He got whatever  
20 information he got from his CIA briefers and staffers he  
21 said which evidently didn't include anything about this  
22 acknowledged HAMAS social wing.

23 He testified he instructed his entourage not to  
24 take him to any of the HAMAS associations, and that's what  
25 he relied on with his briefings. He spoke to someone on a

13:57 1 committee but doesn't have their name, and then he leaves  
2 the State Department and becomes a lobbyist. Edward  
3 Abington doesn't speak for the State Department, and he  
4 sure doesn't speak for the United States.

5 Dr. Nathan Brown, a nice guy. I wouldn't tell  
6 you any of their witnesses are liars because I don't  
7 believe they are. I don't believe anyone got up and lied  
8 because I don't believe they did. I just don't think they  
9 know much about what matters to this case, the substance  
10 of this case and these people and the questions you have  
11 to answer.

12 Lived in Israel for a little over a year when he  
13 was working on his latest book, "Resuming Arab Palestine."  
14 He wrote a book on his research and time in the  
13:58 15 Territories when he was living in Israel that year. And  
16 he wrote a book, "Resuming Arab Palestine," where he  
17 mentions the word "HAMAS" twice. In the entire book on  
18 resuming Arab Palestine. An expert on Palestinian civil  
19 society, okay. But not HAMAS and sure not HAMAS's social  
20 wing. He said under cross examination -- He built up to  
21 that he was an expert on HAMAS, he thought. You saw how  
22 short that conversation lasted in terms of details, names,  
23 organizational positions, decision making, understanding  
24 the internal workings of the structure, identities,  
25 specifics, in the weeds. Dr. Brown could not name one

13:59 1 committee or organization that was part of what he  
2 acknowledged -- although he said it was exaggerated --  
3 HAMAS'S social wing until prompted by me. When I asked  
4 him, "Have you heard of the Islamic Complex?" "Yes, I  
5 have heard of that." "Is it reputed to be a HAMAS  
6 institution?" He said, "Yes and probably well deserved."  
7 Dr. Brown could not name you one committee on his own, one  
8 organization. Could not name -- Like Mr. Abington, could  
9 not name one West Bank HAMAS leader or founder, not one.  
10 Said that was something -- These names and these specifics  
11 would be something you would have to go looking  
12 specifically for: Avi. He talked to someone on the  
13 Ramallah Zakat -- But didn't have their name. Maybe in  
14 his notes -- by appointment as a U.S. professor writing a  
14:01 15 book from America. Does it ring a little bit of Mr.  
16 McGonigle in the Dallas Morning News? He met with someone  
17 at the Nablus Committee, not from but someone at the  
18 Nablus Zakat Committee who didn't have a view. But he was  
19 very impressed with the fact that the committees were  
20 licensed because they had a license. Just like every  
21 company, corporation, and organization in America that's  
22 ever violated the law. Licensed.  
23 Licensed. Avi talked about it. They are  
24 licensed. Talked about HAMAS having people on the  
25 intifada boards, the wakf. Mohammed Fouad Abu Zeid in

14:02 1 3-18 was identified as the head of the intifada fund in  
2 Jenin. He talked about it. His research, work and book  
3 had nothing to do with HAMAS and nothing to do with the  
4 social infrastructure. Dr. Levitt qualified as an expert  
5 by this Court on HAMAS. Avi qualified by this Court as an  
6 expert on HAMAS social infrastructure. Dr. Brown, didn't  
7 know anything about HAMAS's social infrastructure. Under  
8 direct, Dr. Brown, as I told you, was very dismissive of  
9 3-7 and 3-22, but I think they were very useful. Lacked  
10 definition. Apparently, he didn't put much study in the  
11 documents you have seen over the course of these weeks.  
12 Do you think he was interested in giving them definition?  
13 He wasn't even aware of the SAMAH reference in the  
14 Philadelphia conference when I walked him through that.

14:03 15 He didn't know. He finally said that he just gave up on  
16 the document. A professor, maybe. But an investigator,  
17 he's not. I asked him about that ivory tower. Do you  
18 recall? Didn't mean to be mean. But he said that the  
19 ivory tower was a criticism leveled at academics who are  
20 disconnected to the real world. We talked about that  
21 earlier in my rebuttal. Mr. Dratel questioned who was  
22 disconnected from the real world, Avi or Dr. Brown. I'll  
23 take that challenge. I'll tell you who's connected to the  
24 real world, and that's Avi. The job he has to perform,  
25 the streets he has to walk every day. Those were their

14:04 1 two zakat witnesses: One fact witness, not an expert, Mr.  
2 Abington, and one expert on Palestinian civil society.  
3 And if you will forgive my bluntness, neither of whom  
4 knows squat about HAMAS. But neither hesitated for the  
5 first time to walk in this courtroom and opine for you on  
6 who HAMAS was not. Neither of them could tell you who  
7 HAMAS is. We brought you an academic and former  
8 counter-terrorism analyst who wrote a book on HAMAS  
9 politics -- an officer, an attorney whose job it is to  
10 know exactly what he testifies about and travels around  
11 the world in assisting our governments in dealing with and  
12 taking on this HAMAS social infrastructure. You decide,  
13 and I'm okay with that. But we don't ask you to just rely  
14 on Dr. Levitt and Avi. Look at the origins, the purpose  
14:05 15 and the design of the Holy Land Foundation. Look at it.  
16 Think about it. Does it fit? Don't need to just take our  
17 word for it. Take their word for it. These charged  
18 committees were more than controlled by or operating on  
19 behalf of; they were part of HAMAS, Folks.

20 The Judge will instruct you, as Ms. Moreno  
21 alluded, that you may find they provided material  
22 support -- And material support is goods, funds, services,  
23 here is money, cash money, but even for the charitable  
24 items, in kind items that you may believe, that too is  
25 prohibited by law. Anything, everything, going to a

14:06 1 terrorist organization. Why? Because the law recognizes  
2 the danger of these organizations, of every component,  
3 particularly its widest and most critical component, its  
4 base. He would instruct you that you may find that they  
5 provided material support to -- in the specially  
6 designated terrorist charge -- to or for the benefit of  
7 HAMAS, that the organization was controlled by or involved  
8 in managing, controlling, organizing or otherwise  
9 directing HAMAS's personnel or resources. That's exactly  
10 what they were doing. Their social infrastructure. Their  
11 social resources.

12 Let's switch gears for a minute. A couple of  
13 other items I want to touch on. One is the security.  
14 That was also something that was mine with Agent Miranda  
14:07 15 so I feel I have a license to talk about. The security  
16 document they also talked about, this 2-101. Do you  
17 recall that? The document that talked about the covert  
18 actions and laid out exactly what to do and not to do in  
19 talking to exposed persons and traveling undercover, all  
20 of those types of provisions. Well, we talked to you  
21 about some examples of where they used that. We showed  
22 you phone calls with Mr. Baker involving tapping on the  
23 phone and saying "My phone has a cold, my phone has a  
24 cold, we don't need to talk about a persons's honor over  
25 the phone." Shukri and Abdel Natsheh out of the 4

14:08 1 documents. Talking about Ashqar who said he was from  
2 SAMAH, but Shukri tells Ashqar that he played dumb and  
3 denied knowing who Ashqar was because he didn't know this  
4 person claiming to be from SAMAH.

5 We saw the travel overseas that Ms. Hollander  
6 addressed as well. She said he used his real name and  
7 address. Why was he traveling as an Infocom Corporation  
8 employee when he had never been employed with Infocom?  
9 Why? The security sweep where they hired the company in  
10 to search for bugs and listening devices in their  
11 organization, why? Did they follow every provision of  
12 that manual? No. Maybe that's why we're here. What I  
13 have not heard is an explanation at all of why this  
14 organization would have a security manual. Why? A manual  
14:09 15 entitled "The Foundations and Policies and Procedures."  
16 Once again, does it fit? Does it make sense? Think about  
17 it all in the context of these documents.

18 Talked about the family. Again, we ask you to  
19 convict these men because of who their families are?  
20 Absolutely not. Do I think you should consider it? Yes,  
21 I do. The fact that this man's brother is Khalil Mishal,  
22 the number one leader in HAMAS. In fact, the man is  
23 married to the cousin of Mousa Abu Marzook. The fact that  
24 this man is the cousin of Mousa Abu Marzook, the fact that  
25 man's brother is the leader in Sudan and Yemen for HAMAS.

14:10 1 Is it coincidence? Is it? Do you recall the interview of  
2 Khalil Mishal played by Mr. Jonas where Khalil Mishal said  
3 "Give your money to people you trust. American ears are  
4 listening."

5 John Bryant, Ms. Moreno and I believe other  
6 counsel talked about John Bryant. They went and they  
7 hired John Bryant. Because they were so interested in  
8 doing it the right way, they went and hired John Bryant.  
9 Was it a mistake or accident that they hired a former  
10 congressman to represent them? Think about it, Folks, in  
11 the context of what you know about these people. Think  
12 about it in the context of Philadelphia, think about it in  
13 the context of our face to America. John Bryant sat up  
14 here and told you he believed these people were innocent.  
14:11 15 He went to the FBI. He went to the State Department. The  
16 target of a multi-year investigation walks in our door and  
17 wants us to talk. Good idea? It's not hard what these  
18 defendants should and shouldn't do. Don't support  
19 terrorism or terrorist organizations. Do you think John  
20 Bryant reviewed the El Barasse documents? Do you think  
21 John Bryant ever reviewed the Ashqar documents? Do you  
22 think John Bryant reviewed the Philadelphia transcripts?  
23 Do you think John Bryant did that before he walked in the  
24 FBI? Do you think he did that before he walked in here  
25 before you?



14:12 1           They talk about a phone call, Ms. Moreno talked  
2       about it, Mr. Elashi and Mr. Baker. They talked about  
3       what the Government has to do. They've got to put these  
4       organizations on the list. They have to give us the list.  
5       They are held to that. They have to give us the list.  
6       They don't need a list. It's more of their working the  
7       system. He mentions on that call committees that you will  
8       see in this indictment. Just make those up? He knows the  
9       law. They know the law, and they are doing everything  
10      they can to try to manipulate the system, to manipulate  
11      the face to America, the face of you and me. Lies.

12           Mufid Abdulqader was asked about his  
13      relationship with the Holy Land Foundation. He said he  
14      didn't know anybody at the Holy Land Foundation before  
14:13 15     1995, except for his cousin Akram Mishal. Mufid  
16      Abdulqader, the gentlemen you have seen throughout these  
17      video tapes said he disagreed with his brother Khalil  
18      Mishal's political views. Lies.

19           Ms. Moreno has talked about Ghassan Elashi and  
20      that Mr. Jacks made an empty promise. The Government's  
21      7-6 is the deposition or rather a declaration from the  
22      United States District Court for the Northern District of  
23      Illinois. HLF denies that Ghassan Elashi attended the  
24      1993 meeting, the Philadelphia meeting. You saw his  
25      photograph. He was there. The HLF denies that attendees

14:14 1 of the 1993 meeting spoke of their relationship with  
2 HAMAS. Lies.

3 Mohamed El-Mezain in his deposition, another  
4 court matter, was asked "Do you know of any relationship  
5 or dealings that any of you principals of Holy Land  
6 Foundation had with Islamic Association for Palestine in  
7 January of 1989 that would have caused IAP to know about  
8 the Occupied Land Fund and what it was doing?" Remember  
9 the IAP, on same chart, subordinate to the same  
10 leadership, Mousa Abu Marzook, its sister organization.  
11 "No. Actually we -- you asked me before about the people  
12 of IAP, and I said to you we know these people, but we  
13 don't have any relation with them."

14 Mr. Baker in his oral deposition, January 30th,  
14:16 15 2003. First one is the Islamic Association for Palestine.  
16 "Are you aware of any relationship or affiliation of any  
17 sort between that entity and the HLF?"

18 "No affiliation but what do you mean by  
19 relationship? Can you itemize that?"

20 "Well, did you undertake any programs together,  
21 work together in any fashion?"

22 "We had a business relationship with IAP."

23 A business relationship with the IAP. 13-168 is  
24 the phone conversation with Gail Reeves. Do you recall  
25 that where Gail Reeves from the Dallas Morning News called

14:17 1 Mr. Baker and talked to him and asked him some questions?  
2 "Do you know is it -- is it" -- Ms. Reeves stated "Would  
3 it be correct to say, if you know, some of these  
4 conferences at which, you know, I believe -- If it wasn't  
5 this one, it was another. Just about the same time that,  
6 you know, was -- one of the speakers thanks the Occupied  
7 Land Fund and IAP for your sponsorship of the conference  
8 and HAMAS and goes on, you know, and says things like, you  
9 know -- you know, they are assigned, saying they were  
10 sponsored by IAP. Is it possible that, you know, that  
11 back then the organizations did take a more, you know --  
12 Well, I know you can't speak for IAP but --"

13 Shukri Abu Baker says, "Well, well --"

14 "But the HLF did take a more political stance.

14:18 15 And that now you've stepped back from that?"

16 "No, no. In fact, I can speak for the Holy Land  
17 Foundation very comfortably. We have never raised -- We  
18 have raised money for HAMAS. I dare anybody to say,  
19 Shukri, you wrote or you stood up in front of a conference  
20 and asked for money for HAMAS and are trying to recruit  
21 members for HAMAS. We have never done this."

22 Recall in the Philadelphia conference where he  
23 talks about the color of what we did, the military  
24 recruitment. It was heading in that direction. You  
25 recall that quote in Philadelphia. You can go back over

14:18 1 and since we started, the fundraising literature, we have  
2 never in any written communication used the word "HAMAS"  
3 or in any oral communication in front of the audience  
4 tried to raise funds for HAMAS."

5 Ms. Reeves: "You know that you are saying that  
6 even if, even if a Holy Land Foundation leader appeared at  
7 conference, you know, with people who are supporting HAMAS  
8 and who are very much in favor of armed Jihad and things  
9 like that, that just because you all sponsored the  
10 conference and the speaker spoke there doesn't mean that  
11 you were sending the money? Is that what you are saying?"

12 "Well, we didn't sponsor any speakers from HAMAS  
13 to start with."

14 "But, you know, then later on when the military  
14:19 15 wing started doing military operations, a lot of people  
16 distanced themselves," she says to Mr. Baker. Or Mr.  
17 Baker says that. Excuse me. "What I was asking you was  
18 is that the kind of position that the HLF found itself  
19 in?"

20 And Shukri Abu Baker, "Well, we never -- we  
21 never associated with HAMAS to start with, to distance  
22 ourselves later on. We never associated with HAMAS."

23 Mr. Jonas also talked to you about in the  
24 deposition where he talks about the donation of Mousa Abu  
25 Marzook. There is no other relationship to Mousa Abu

14:20 1 Marzook. It was a one-time donor at a festival. Guess he  
2 just forgot that Marzook sat at the top of this  
3 organization. Declaration of Shukri Abu Baker,  
4 Government's Exhibit 8-1. "Neither I, nor to my knowledge  
5 any of the founders of this charity, have had any  
6 connection whatever to HAMAS or to any terrorist group or  
7 terrorism."

8 "To my knowledge, we have never had a board  
9 member with any connection to HAMAS. The 1993  
10 Philadelphia meeting was a meeting of Islamist  
11 intellectuals, academicians, community leaders and  
12 representatives of American Islamic organizations such as  
13 ours. It was not a meeting of any organization."

14 Do you recall Omar Ahmed saying this was a  
14:21 15 meeting of the Palestine Committee, a committee set up by  
16 the Muslim Brotherhood and set up to support the flare of  
17 Jihad, HAMAS? Shukri Abu Baker goes on to say, "This memo  
18 makes an issue out of some people's use of the word  
19 'SAMAH' at this meeting. This word translated into  
20 phonetic English is HAMAS spelled backward. Some people  
21 at the meeting spoke of HAMAS openly, and there was no  
22 reason for them not to since HAMAS's role in Palestine was  
23 a natural subject of discussion and HAMAS was not a banned  
24 organization at that time."

25 You recall that Ms. Hollander pointed out that

14:22 1 in the 1993 conference, even before the law existed,  
2 Shukri Abu Baker refers to HAMAS as a terrorist  
3 organization. "The use of the word 'SAMAH' was a  
4 whimsical and ironic play on words. SAMAH means  
5 forgiveness in Arabic, and in my opinion, those who use  
6 the term were making ironic fun of HAMAS, not adopting a  
7 secret term to disguise their references to the  
8 organization."

9 Why are they lying? Why are they lying? Just  
10 exercising their free speech? If they are just exercising  
11 their right of association, why are they lying?

12 Steve McGonigle, you heard from Steve McGonigle,  
13 the reporter for the Dallas Morning News. Traveled to  
14 write a story about the Holy Land Foundation and its  
14:23 15 alleged relationship with HAMAS and met with Mahmoud  
16 Zahar. Mahmoud Zahar, "Recall I just told you I don't  
17 know about this Holy Land Foundation, but I met Shukri Abu  
18 Baker once at a conference in California. We talked about  
19 his daughter." Shukri Abu Baker and the Holy Land  
20 Foundation flew Mr. Zahar to that conference. You saw the  
21 video, the American Express records. You saw in  
22 Defendant's Exhibit 1019 where he met with Mr. Zahar in  
23 Palestine to talk to him about projects. You saw in a  
24 call with Jamal Issa, the HAMAS leader in Yemen and then  
25 Sudan, the brother of the Defendant Shukri Abu Baker. You

14:24 1 saw them talk about this empty-headed guy, Mahmoud Zahar.  
2 "This empty-headed guy who's telling people over here that  
3 you introduced him to some merchants." This man did know  
4 what he said. "I only did charity with this man. I only  
5 did charity with this man." That's what Mahmoud Zahar had  
6 to say to Steve McGonigle. McGonigle traveled then on  
7 down the road and talked to Sheikh Ahmed Yassin, the  
8 number one founder of HAMAS. What did they say about what  
9 Sheikh Yassin had to say? He played dumb. He said "Who  
10 is this Holy Land Foundation? We're building a school.  
11 Maybe they can help." Why does the spiritual founder of  
12 HAMAS need to play dumb? Why does Mahmoud Zahar need to  
13 play dumb? Why lie? Because their true self was a threat  
14 to their organization's survival and their personal  
14:25 15 freedom. Because today, because of the work of many  
16 dedicated people, they sit before you.

17 It was all about protecting the American face,  
18 to continue using this country as a platform to exploit us  
19 and the severe and certain need in Palestine. That's the  
20 real crime. They brought you photos of charity and relief  
21 work. They brought that and put that in front of you,  
22 their American face, giving charity, but as they say,  
23 strings attached. Do you recall the video of the HLF  
24 talking to the young child? He said to the young child on  
25 the video, "Tell us how your father died. Tell us. Speak

14:26 1 Boy, speak. The Jews killed your father, didn't they,  
2 Boy? The Jews killed him and you will grow up, and you  
3 will remember who killed your father." That is the crime.  
4 They and HAMAS stand on the backs of those who are in need  
5 to give them influence and power, to -- as they said in  
6 Philadelphia -- exploit the humanitarian stuff to make you  
7 look legitimate. They help guarantee a commitment to the  
8 love of martyrdom and allegiance to an organization set on  
9 annihilating a civilization. Is that part of what Ms.  
10 Moreno characterized as the fantasy of violence?

11 In one of their openings, counsel in this case  
12 said this was about children and Ms. Moreno said in her  
13 closing about violence against children. I want you to  
14 think about those videos. I want you to think about those  
14:28 15 children marching in their uniforms, marching with guns,  
16 the ones taken from the Holy Land Foundation, with the  
17 children dancing with Mr. Baker orchestrating. HAMAS, the  
18 love of martyrdom, over our blood. I want you to remember  
19 the face of those children. She's right. It's about  
20 violence against the children. Cradle to grave. Cradle  
21 to grave. They need founders, they need directors, they  
22 need fundraisers and singers. They need people running  
23 their offices. It's machinery that works by the beat of  
24 its people. They all have a role to play, and they all  
25 play it.



14:29 1 I'm almost done. It's about all yours. This is  
2 the point where most prosecutors would ask you to find  
3 these defendants guilty. I'm not going to do that. I am  
4 going to ask you to find justice. For when you walk out  
5 of this place and you go back to your homes, to your  
6 schools, to your places of worship, to your social  
7 gatherings and people talk about the system, the system,  
8 from here on for the rest of your lives they are talking  
9 about you. For this day, this hour, this moment and this  
10 place, you are the system. Justice is what you say it is.  
11 And I'm okay with that. Thank you, your Honor.

12 THE COURT: Ladies and Gentlemen, the next step  
13 in our trial is for me to give you instructions on the  
14 law. I anticipate that's going to take somewhere between  
14:31 15 an hour to an hour and a half. So let's take our  
16 midafternoon recess at this time. We'll be in recess  
17 until 2:50.

18 (Recess)

19 THE COURT: Ladies and Gentlemen, I have reduced  
20 my instructions to you on the law to writing, and I have  
21 had copies made so that if you would like to do so you may  
22 follow along as I read these instructions to you. So I  
23 will ask Mr. Kiblinger to pass the copies of instructions  
24 out to you.

25 Let me comment to you about the size of these

14:54 1 individual packets. They look like the phonebook for a  
2 small city, but it's really not as bad as it appears.  
3 Probably about half of that is the verdict form. You will  
4 remember that there are five individual defendants and a  
5 corporate defendant in this case. There are thirty-six  
6 counts in the indictment, and so if every defendant were  
7 named in every count, six times thirty-six would be two  
8 hundred sixteen separate decisions, although there are  
9 only two counts in which all the defendants are named. So  
10 I think the total number of decisions you will be called  
11 upon to make is two hundred eighty separate decisions, and  
12 that's why the verdict form itself is so long, and we'll  
13 come to that later. But for the moment, let me go ahead  
14 and read the instructions to you.

16:03 15 (Jury charged)

16 THE COURT: Thank you, Ms. Hudson. Ladies and  
17 Gentlemen, I want to go over with you briefly the verdict  
18 form that begins on Page 55.

19 (Jury charged)

20 THE COURT: Ladies and Gentlemen, that completes  
21 my instructions to you about the law. I have one other  
22 task to perform before you leave to go to the juryroom,  
23 and that is to announce, as I told you all when you were  
24 first sworn in as jurors, that some of you were regular  
25 jurors and some of you were alternate jurors in the event

16:24 1 that the other members of the jury were not able to  
2 complete their service. I told you that at that time you  
3 would not know which of you were real jurors and which of  
4 you were alternates because we wanted to be sure that  
5 everyone paid close attention to the evidence as it was  
6 being presented. However, the alternate jurors are not  
7 allowed by law to participate in the deliberations, but  
8 there is still the possibility -- depending on how long  
9 jury deliberations take -- that one of you might need to  
10 be substituted for another member of the jury. So I can  
11 now announce that the persons who have been serving as  
12 alternate jurors in this case are Mr. Brice Odell, Ms.  
13 Patricia Sanders and Mr. Jerry McGahan, and I am going to  
14 ask that all of you report to the courthouse each day, and  
16:25 15 we will find a place where you can occupy yourselves as  
16 juror deliberations are ongoing because, as I said, there  
17 is still the possibility that we might need your service  
18 if events require that we substitute you for another  
19 member of the jury. However, it's important that the  
20 alternates not discuss the case with anyone until such  
21 time, if ever, they are substituted as a member of the  
22 jury and then required to deliberate with the other  
23 members of the jury.

24 So let me ask first if Mr. Odell, Ms. Sanders or  
25 Mr. McGahan -- if any of you have possessions in the

16:26 1 juryroom that you need to retrieve. If so, let me ask  
2 that you leave the courtroom now and retrieve your  
3 possessions. Since we have been having the jury  
4 transported to and from the courthouse every day by the  
5 Marshal, I am going to ask that you continue to  
6 participate in those transportation arrangements, but  
7 while the jury is in the van, the case should not be  
8 discussed among yourselves since we have the alternates  
9 there, too, and then when you get here in the morning, the  
10 jury will come to the juryroom to begin deliberations.  
11 And the alternates, we will find another place for you, as  
12 I said, to occupy yourselves while the deliberations are  
13 ongoing. But for the moment, let me ask the alternate  
14 members of the jury I have identified -- that they go to  
16:27 15 the juryroom and retrieve their possessions so that they  
16 will be out of the juryroom when the jury returns. You  
17 may be excused from the courtroom at this time.

18 Now, Ladies and Gentlemen, for the rest of you,  
19 I told you just now in these instructions which Ms. Hudson  
20 read to you that now that the jury deliberations are about  
21 to begin that you will be the masters and mistresses of  
22 your own schedule, and I adhere to that. However, since  
23 we have these transportation arrangements for you at the  
24 beginning and end of each day, I think it would be well to  
25 the extent possible to continue to have a regular schedule

16:28 1 about that, and so I am going to suggest given the hour  
2 today that maybe for today you go back -- and if you want  
3 to do so and have time -- that you maybe go ahead and  
4 elect a foreperson. Or if you want to defer that until  
5 tomorrow, you can do that is well. I'll leave that up to  
6 you. But that we not try to accomplish too much today so  
7 that we can stay on a regular schedule.

8 Also, as I mentioned earlier in the week I  
9 believe, I have made some committments that would preclude  
10 us from being in session on Friday of this week, and so  
11 tomorrow will be as far as I know a full day for you to  
12 deliberate, but after that we will need to recess until  
13 the following Monday. Let me ask you as soon as you leave  
14 the courtroom or while you are leaving the courtroom, that  
16:29 15 you hand back to Mr. Kiblinger these copies of the Court's  
16 instructions that you were given. We will return those to  
17 you in a short time so that each of you will have  
18 available a copy to refer to if you need to during your  
19 deliberations. But I want to be sure that you get the  
20 instructions at the same time you get all the materials  
21 that you will be considering in deliberations; namely,  
22 copies of the indictment, the documentary and tangible  
23 evidence that were received in evidence during the trial,  
24 and we've also made photographs of all the witnesses who  
25 testified so that if that assists you, you can remember

16:29 1 who appeared and who said what during the trial.

2 Ladies and Gentlemen, I believe that completes  
3 my instructions to you, you may now be excused from the  
4 courtroom.

5 (Jury out)

6 THE COURT: Ladies and Gentlemen, I'll now  
7 entertain the objections of the parties to the  
8 instructions that were just delivered to the jury.  
9 Counsel for the government have any?

10 MR. JACKS: No, your Honor.

11 THE COURT: Mr. Cline?

12 MR. CLINE: Yes, your Honor, in keeping with our  
13 colloquy the other day on the subject, we have previously  
14 made certain requests for instructions. I think we  
16:31 15 submitted written objections and comments on the Court's  
16 instructions. We would respectfully incorporate those  
17 requests, objections and comments as our objections now  
18 for the purposes of Rule 30.

19 THE COURT: Thank you, Mr. Cline. To the extent  
20 that I did not give an instruction that was requested or  
21 that I did not agree or accede to an objection, I'm  
22 overruling that request or that objection.

23 I had one other matter that I guess we need to  
24 resolve while we're all together this afternoon. And that  
25 is I had a letter that I received late yesterday afternoon

16:31 1 from Mr. Jacks that was hand-delivered dated September 18,  
2 2007, concerning Defendant's Exhibits 1015 and 1050, and  
3 then I had a responsive letter this morning also dated  
4 September -- But I didn't see it until I arrived at the  
5 office this morning -- from Ms. Hollander in response to  
6 Mr. Jacks's letter. And I'm ready to -- I consider the  
7 government's letter a motion to strike these two exhibits  
8 for the reasons that are set forth in Mr. Jacks's letter,  
9 and I'm ready to rule on that except for one point that  
10 I'm still not clear about. And that is, Ms. Hollander,  
11 Mr. Jacks's letter says that there was a Video Tape Number  
12 282 which is identified as Defendant's Exhibit 1050.  
13 However, Mr. Jacks was unsure which video tape that was  
14 because there were two video tapes numbered 282, one from  
16:33 15 the HLF search and one from the search of the offices of  
16 Infocom, and he said in Footnote 2 at the bottom of Page 2  
17 of his letter, "Neither the defendant's exhibit list, nor  
18 Ms. Hollander, advised which Tape 282 was referred to."  
19 And after reviewing your response, I'm not sure myself  
20 which of those is being referred to.

21 MS. HOLLANDER: Your Honor, I didn't know there  
22 were two. I only knew about the one I had, and it is the  
23 people and the land. I thought I referenced that in a  
24 letter, but I may not have made it clear, but it is the  
25 people and the land.

16:34 1 THE COURT: Well, thank you for that  
2 clarification, and with that clarification, I am going to  
3 deny the government's motion to strike these two exhibits.  
4 So Defendant's Exhibits 1015 and 1050 will be available to  
5 the jury for use during its deliberations, and I am going  
6 to order that these two letters be filed as part of the  
7 papers in this case so that it will be clear what I was  
8 asked to do and what I have done.

9 While the jury is deliberating, I will want the  
10 parties and their counsel to remain in or near the  
11 courtroom in the event that we have a communication from  
12 the jury.

13 It is all right with me if you remain in the  
14 vicinity of the courtroom if you don't want to stay in the  
16:35 15 courtroom the entire time. However, if you get very far  
16 away and we cannot find you after a few minutes, I will  
17 consider that you have waived your right to have any input  
18 into what my response to a communication from the jury is.

19 Now, I recognize that many of our counsel for  
20 the defendants are from out of town, and it's my  
21 impression or understanding that you have been staying at  
22 the Hotel Adolphus which is across the street and down the  
23 block. And so if some of you want to retire to the  
24 Adolphus, that would be satisfactory to me if you can be  
25 back from the Adolphus within ten minutes and also



16:35 1 provided that at least one member of the defense team --  
2 and you can alternate this duty if you want -- is present  
3 in or about the courtroom and would have the  
4 responsibility of notifying our defense counsel that you  
5 are needed immediately.

6 And similarly, I know that the U.S. Attorney has  
7 an office in this building. If counsel for the government  
8 want to retire to their office, that's okay with me  
9 provided that at least one member of the government's team  
10 is in or about the courtroom so that we can find you, and  
11 you would then have the responsibility of notifying any  
12 other members of the prosecution team that needed to be  
13 here to respond to the jury communication.

14 I do intend that the courtroom should only be  
16:36 15 occupied by counsel and the parties and not spectators  
16 while the jury is deliberating because I have other uses  
17 for the courtroom. I have some matters on my criminal  
18 docket set for Friday, for example, and we will need the  
19 space. So counsel for both parties, if you want to leave  
20 any of your materials in the courtroom that is fine with  
21 me, although I don't want to be responsible for your  
22 materials. I don't take responsibility for them, but if  
23 you leave any here, they need to be sort of off the  
24 counsel table and to the side so that when I have my  
25 criminal docket on Friday our counsel can occupy the seats

16:37 1 at counsel table. Counsel have anything?

2 MS. CADEDDU: Yes, your Honor, on behalf of the  
3 defendants and their families, we would actually like to  
4 request that when the jury does return a verdict that  
5 there will be a longer time period. We would ask for an  
6 hour to permit the families who will be in the vicinity of  
7 the courthouse to assemble and get here to take the  
8 verdict.

9 THE COURT: I don't know about the logistics of  
10 that, Ms. Cadeddu. Of course I have no idea what hour of  
11 the day we will be receiving the verdict, and if it's late  
12 in the day, I think I have misgivings about that because I  
13 don't want to stay too late. There is a lot of overtime  
14 probably involved in people staying late. So I'm willing  
16:38 15 to do that if it works out, but I'm not going to commit to  
16 do it.

17 MS. CADEDDU: I understand, your Honor. Thank  
18 you.

19 THE COURT: Anyone else have anything that we  
20 need to cover while we're all together?

21 MR. CLINE: No, thank you, your Honor.

22 THE COURT: Ladies and Gentlemen, I'd like to  
23 see counsel in my library in about ten minutes. Court  
24 will be in recess.

25 Ladies and Gentlemen, I'm sorry for the false

16:38 1 alarm. I was just told by Ms. Casey -- and I think she's  
2 right about this -- she advised me that counsel have  
3 agreed on what exhibits came into the record and go to the  
4 juryroom and that after review they are ready to go to the  
5 jury, and so I just wanted to announce that on the record  
6 and be sure that no one dissented from that statement.

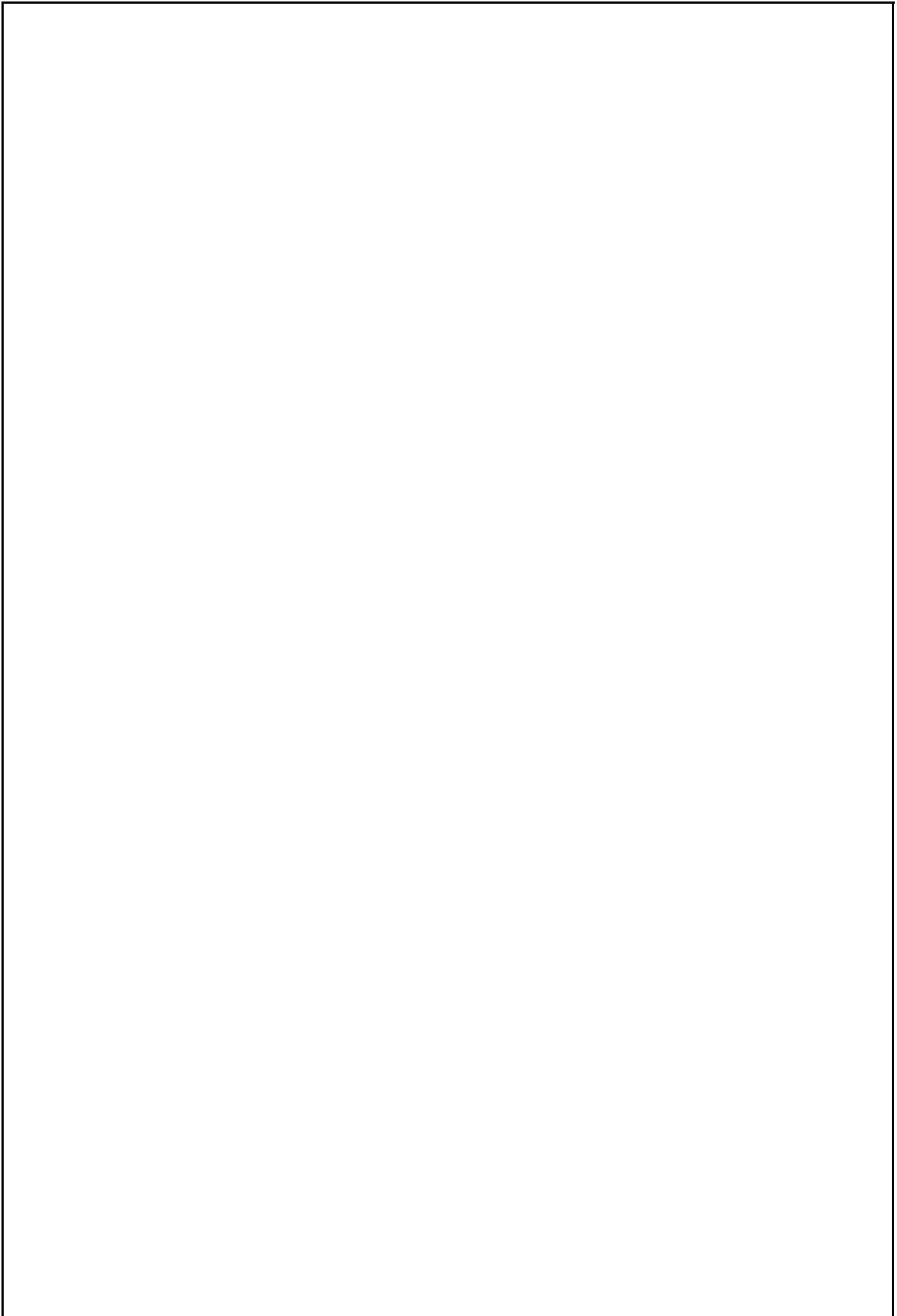
7 MS. HOLLANDER: I believe that's correct, your  
8 Honor.

9 MR. JACKS: Yes, sir.

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I, Cassidi L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing pages 1 through 134 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

s/Cassidi L. Casey

---

CASSIDI L. CASEY  
UNITED STATES DISTRICT REPORTER  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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